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PLEASE REPLY TO NEW JERSEY OFFICE

July 14, 2004

United States Patent and Trademark Office
Box TTAB
Assistant Commissioner for Trademarks
2900 Crystal Drive
Arlington, Virginia 22202-3513

TTAB

Re: World Confections, Inc.
Petition for Opposition/Opposition No. 91/158,237

To Whom It May Concern:

We represent the Petitioner in the referenced matter. Enclosed for filing are the following documents.

1. Original and two copies of Motion/Brief;
2. Declaration of Matthew Cohen (original);
3. Declaration of John Rannells (original)

Very truly yours,

BAKER & RANNELLS



John M. Rannells



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

-----X

World Confections, Inc.

Opposer

Mark: ALPINE CONFECTIONS

v.

Opposition No.: 91/158,237

Kencraft Inc.

Application No. 76/362,977

Applicant

-----X

**OPPOSER'S MOTION FOR SUMMARY JUDGMENT
AND BRIEF IN SUPPORT THEREOF**

ON THE BRIEF:

JOHN M. RANNELLS
Attorney for Opposer
626 North Thompson St.
Raritan, New Jersey 08869
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07-19-2004

U.S. Patent & TMOfc/TM Mail Rcpt Dt. #22

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

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World Confections, Inc.

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Opposition No.: 91/158,237

Kencraft Inc.

Application No. 76/362,977

Applicant

-----X

**OPPOSER'S MOTION FOR SUMMARY JUDGMENT
AND BRIEF IN SUPPORT THEREOF**

TO THE HONORABLE BOARD:

Opposer, World Confections, Inc., through its undersigned attorneys, respectfully moves this Honorable Board for summary judgment granting its opposition to App. Ser. No. 76/362977. Opposer further moves that the case be suspended pending the Board's decision on the instant summary judgment motion.

I. INTRODUCTION

The opposition proceeding is currently in its discovery period. Accordingly, this motion for summary judgment is timely.

Accompanying this motion/brief are the supporting declarations of Matthew Cohen, President of Opposer and John M. Rannells, Attorney for Opposer.

THE PARTIES

Opposer: Opposer is a manufacturer, importer and exporter of confectionery products, including without limitation, sugar confections in a box, gummi candy, gum, chocolate, lollipops, hand decorated jelly products, popping candy, Holiday candies, and licorice¹.

Opposer has sold gummi candy under the mark and name ALPINE CONFECTIONS continuously from 1997 to the present date, and owns pending trademark application Ser. No. 76/365845 for the mark ALPINE CONFECTIONS for fruit flavored gummy candy. The application is suspended pending the outcome of the captioned proceeding².

Applicant: Applicant is a manufacturer of confectionery products. The application being opposed is Intent to Use application 76/362,977 for the mark ALPINE CONFECTIONS for candy (the term "Confections" being disclaimed). As briefed below, Applicant has not yet begun to use the mark in commerce.

II. ARGUMENT

A. Summary Judgment Is Appropriate --

As stated in Section 528.01 of the TBMP, "the summary judgment procedure is regarded as 'a salutary method of disposition,' and the Board does not hesitate to dispose of cases on summary judgment when appropriate" [citing cases]. The purpose of a summary judgment motion is "judicial economy, that is, to avoid the unnecessary trial where there is no genuine issue of material fact and more evidence than is already

¹ Declaration Cohen, ¶ 6.

² Declaration Cohen ¶¶ 8 and 9.

available in connection with the summary judgment motion could not reasonably be expected to change the result in the case". Id.

The present case is particularly suited to summary judgment procedure as analysis of the *duPont* factors demonstrates that confusion is likely, the material governing facts described herein are not in dispute, and summary judgment has been granted by the Board and the Courts in instances similar to the present proceeding.

Rule 56(c) F.R.Civ.P. provides that the court shall render summary judgment "if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." In moving on a Motion for Summary Judgment under Rule 56(c), the Board must answer two basic questions: First, is there any genuine issue as to any material fact? Second, if there is no genuine issue of material fact, then, viewing the evidence and the inferences which may be drawn therefrom in the light most favorable to the adverse party, is the movant entitled to prevail as a matter of law? See, Radobenko v. Automated Equipment Corp., 520 F.2d 540, 543 (9th Cir. 1975). To defeat a motion for summary judgment, the Rule requires a "*genuine issue of material fact*" (i.e., a dispute capable of affecting the outcome of the case), not simply an issue of fact. See, American International Group Inc. v. American International Bank, 926 F.2d. 829 (9th Cir. 1991).

As demonstrated below, Opposer has priority, the marks in issue are identical, the goods in issue are legally identical and similar, and the channels of trade are legally identical. Accordingly, Opposer must prevail and summary judgment is appropriate.

B. Opposer Has Priority

Opposer has sold gummi candy under the mark and name ALPINE CONFECTIONS continuously from 1997 to the present date³. Attached to the Declaration of Opposer's President, Matthew Cohen, as Exhibit 2 are copies of supporting representative invoices from each year from 1997 to the present date, for sales of gummi candy under the mark ALPINE CONFECTIONS⁴.

Opposer's sales of ALPINE CONFECTIONS brand gummi products has grown from approximately \$850,000 in the year 1998 to between \$3 million and \$3.5 million for each of the past three years⁵.

The Applicant's ITU application in issue, was filed with the PTO on January 24, 2002, long after Opposer commenced use of its mark. Further, as of at least as late as April 30, 2004, Applicant had not yet begun use of the mark on candy products in commerce. See, Exhibits 1-3 of the accompanying declaration of John Rannells, namely Applicant's responses to various discovery requests. In fact, in Exhibit 3, Applicant states therein that as of March 8, 2004 Applicant had not sold or distributed goods in the U.S. under the mark ALPINE CONFECTIONS; had no tags, labels, packaging, or other printed materials which were used, or which it intended to use in the U.S. bearing the mark ALPINE CONFECTIONS; had no advertising or promotional material concerning or relating to the mark ALPINE CONFECTIONS which it had used or was intending to use; had no documents sufficient to identify the types of commercial

³ Declaration Cohen ¶¶ 7 and 9.

⁴ See also, Declaration Cohen ¶ 7.

⁵ Declaration Cohen ¶ 12. Note, however, that as explained in paragraph 13 of the Cohen Declaration, sales of Opposer's gummi products in 2003 and 2004 have been under both the mark ALPINE CONFECTIONS and the mark ALPINE BRAND. This is explained in further detail below on pages 7 and 9 of this brief.

establishments in which candy bearing the ALPINE CONFECTIONS mark had been sold or was intended to be sold through; had not yet formulated plans for distribution of goods bearing the mark ALPINE CONFECTIONS; and had no documents concerning marketing, advertising, or promotional plans concerning use or intended use of the mark ALPINE CONFECTIONS on candy.

Applicant does indicate use of the term "Alpine Confections" as part of the corporate/trade name of Applicant's parent company, Alpine Confections, Inc. and of Applicant's sister company, Alpine Confections Holding, Inc.⁶ However, even if Applicant were to attempt to rely upon use of its parent or sister company's corporate/trade name for priority purposes, the official Utah Department of Commerce web site business entity database shows their respective dates of incorporation as Alpine Confections, Inc. registered August 6, 1999, and Alpine Confections Holdings, Inc. registered February 26, 2003⁷ – both long after Opposer commenced use of its mark. Further the Applicant admits that "as of January 24, 2003 Alpine Confections Holdings, Inc. made no use of the mark ALPINE CONFECTIONS sufficient to give Alpine Confections Holdings, Inc. a proprietary interest therein⁸." Applicant admits the same with regard to Alpine Confections, Inc.⁹

⁶ See Declaration Rannells, Ex. 2 (App's response to Interrogatory 13).

⁷ Declaration Rannells, ¶ 8 and Ex. 5.

⁸ Declaration Rannells Ex. 2 (Request to Admit no. 3)

⁹ Declaration Rannells Ex. 2 (Request to Admit no. 5)

**C. ANALYSIS OF THE DUPONT FACTORS
CONCLUSIVELY DEMONSTRATES THAT CONFUSION
IS LIKELY TO RESULT FROM THE SIMULTANEOUS
USE BY THE PARTIES OF THEIR RESPECTIVE MARKS**

In In re E.I. du Pont de Nemours & Co., 177 USPQ 563, 567 (CCPA 1973), the Court established a decisional process for determining likelihood of confusion in trademark cases. Thirteen (13) factors were propounded which are to be considered when there is sufficient evidence of record and where the same are relevant. Any one or more of the factors may control a particular case - see In re Dixie Restaurants Inc., 41 USPQ2d 1531,1533 (CAFC 1997). In this case, the primary factors of record are the identity and similarity of the parties' respective marks, the similarity of the parties' respective goods, and the similarity of trade channels - see E. I. du Pont de Nemours and Co. v. Sunlyra International Inc., 35 USPQ2d 1787,1791 (TTAB 1995). These primary factors, as well as the remaining factors of record overwhelmingly favor Opposer to such a degree that there must be a finding of likelihood of confusion and summary judgment is appropriate.

**1. The Similarity Or Dissimilarity Of The Marks In Their Entireties
As To Appearance, Sound, Connotation And Commercial Impression.**

The parties' marks are:

Opposer: **ALPINE CONFECTIONS (and ALPINE BRAND)**

Applicant: **ALPINE CONFECTIONS**

The application in issue presents Applicant's mark in "typed form". Accordingly, the parties' respective marks are legally identical in sight, sound, meaning and commercial impression.

Opposer also began using the mark ALPINE BRAND beginning in the late Spring of 2003. The use is part of an ongoing program whereby Opposer is temporary changing over from the mark ALPINE CONFECTIONS to the mark ALPINE BRAND. The changeover was commenced as a result of Opposer receiving a number of communications from parties wondering if there were a relationship between Opposer and Applicant's parent company, Alpine Confections, Inc. The changeover is still in process (Opposer is currently selling under both marks), however Opposer intends to resume exclusive use of the mark ALPINE CONFECTIONS upon a decision in the present case¹⁰. In any event confusion as to source is also likely as a result of concurrent use of the marks ALPINE BRAND and ALPINE CONFECTIONS, both for confections, namely candy.

This factor overwhelmingly favors Opposer.

2. The Similarity Or Dissimilarity And Nature Of The Goods Or Services As Described In An Application Or Registration Or In Connection With Which a Prior Mark Is In Use

As evidenced below, the parties' respective goods are legally identical, and otherwise similar and related to such an extent the confusion is inevitable.

Opposer's ALPINE CONFECTIONS Goods: Fruit flavored gummy candy (as used by Opposer and as recited in Opposer's pending application).

Applicant's ALPINE CONFECTIONS Goods: Candy (as recited in the application being opposed).

It has long been held that trademark cases before the TTAB must be decided on the basis of the identification of the goods as set forth in the application being opposed.

¹⁰ Declaration Cohen ¶ 13.

In re Allen Electric and Equipment Company, 173 USPQ 689 (CCPA 1972); and Solar Turbines Inc. v. Gemini Engine Co., 218 USPQ 854, 855 (TTAB 1983) ["Applicant is bound by identification of goods in its application as it was published for opposition..."].

Applicant's goods, as recited in the application in issue (i.e., "candy"), are inclusive of all types of candy products, and accordingly legally encompass the identical type candy products sold by Opposer under the identical mark.

This factor overwhelmingly favors Opposer.

3. The Similarity Or Dissimilarity Of Established Likely-To-Continue Trade Channels

There are no limitations or restrictions recited in the application in issue. Accordingly, the Board must find, as a matter of law, that Opposer's and Applicant's goods move (or will move) in all channels of trade that are appropriate for the goods identified, namely candy products. See Miles Laboratories v. Naturally Vitamin Supplements, 1 USPQ2d 1445,1450 (TTAB 1987).

Opposer's ALPINE CONFECTIONS brand gummi candy is sold throughout the forty-eight (48) contiguous States, through all typical channels of trade, including without limitation, supermarkets, grocery stores, so-called mom and pop stores, drug stores, candy stores, delicatessens, convenience stores, and over the Internet, namely all types of retail outlets through which candy is typically sold¹¹.

In response to Opposer's Interrogatory no. 7 to Applicant, namely, "describe all types of commercial establishments in which Applicant's Goods [i.e., candy] bearing Applicant's Mark [i.e., ALPINE CONFECTIONS] are sold and/or are intended to be

¹¹ Declaration Cohen ¶ 10.

sold”, Applicant’s responded: “Retail stores.”¹² Accordingly, for purposes of this proceeding, the Board must find as a matter of law that the channels of trade through which both parties’ goods will move are identical.

This factor overwhelmingly favors Opposer.

4. The Nature And Extent Of Any Actual Confusion

Since Applicant has not yet begun to use the mark, actual confusion cannot have occurred.

Notwithstanding the same, confusion has occurred as between Opposer’s ALPINE CONFECTIONS mark and Applicant’s parent company’s use of its corporate/trade name, Alpine Confections, Inc. This confusion is indicative of the confusion that would result should Applicant begin using the mark ALPINE CONFECTIONS on candy products.

As stated above on page 6 of this brief, beginning in late Spring of 2003, Opposer began a temporary changeover from the mark ALPINE CONFECTIONS to the mark ALPINE BRAND. The changeover was commenced as a result of Opposer receiving a number of communications from parties wondering if there was a relationship between Opposer and Applicant’s parent company, Alpine Confections, Inc. In an attempt to avoid customers being confused or making such a connection, Opposer decided to temporarily change from ALPINE CONFECTIONS to simply ALPINE BRAND. The changeover is still in process, however Opposer intends to resume

¹² Declaration Rannells Exhibit 4.

exclusive use of the mark ALPINE CONFECTIONS upon a decision in the present case¹³.

Unfortunately, Opposer's attempts to avoid confusion and mistake have not been successful. The May-June '04 edition of *Professional Candy Buyer* (the News & Trends section) contains an article about Kencraft's parent company entitled "Alpine Acquires Fannie May, Fannie Farmer Brands". The center and most prominent portion of the article contains an exact replica of Opposer's distinct "Alpine Confections" logo (a fanciful pastoral scene with cottage, haystack, river, bridge, forest trees and mountains and the words ALPINE CONFECTIONS) which logo is used on Opposer's ALPINE CONFECTIONS gummi products¹⁴. Obviously, and at a minimum, the trade publication was confused.

The May-June '04 edition of *Professional Candy Buyer* was distributed at and made available to the participants and attendees of the National Confectioners Association ("NCA") "All Candy Expo 2004" trade show which was held June 8 – 10, 2004 at Lakeside Center, McCormick Place, Chicago, Illinois. Both Opposer and Applicant were in attendance at and had exhibit booths at the trade show. As stated on the All Candy Expo website (a copy of which is attached to the accompanying Declaration of Cohen as Exhibit "5"):

The ALL CANDY EXPO®, sponsored by the National Confectioners Association, is the largest confectionery-only show in North America, and serves as the meeting place for the confectionery industry. The EXPO is a unique opportunity to buy, sell and network with industry professionals and decision makers. There were 480 exhibitors and more than 18,000 attendees at the 2004 event. . . . Attendees are buyers from all classes of trade including supermarkets, drug stores, vending, convenience stores,

¹³ Declaration Cohen ¶ 13.

¹⁴ Declaration Cohen ¶ 14 and Exhibits 3 (examples of Opposer's product packaging) and 4 (copy of the referenced article).

wholesalers, theaters, mass merchants, specialty and department stores. Importers, exporters, suppliers, distributors and brokers also attend, making the EXPO the 'must attend' show of the year.

The appearance of Opposer's distinctive logo on and in an article about Applicant's parent company during the most important trade show of the year, was a terrible embarrassment for Opposer¹⁵.

On June 23, 2004, Opposer's attorneys sent a letter to Applicant complaining about the matter and demanding that the situation be corrected¹⁶. To date, Applicant has failed to respond.

This factor strongly favors Opposer.

5. The Conditions Under Which And Buyers To Whom Sales Are Made, i.e., Impulse vs. Careful, Sophisticated Purchasing

It has long been held that candy products are impulse purchase items, namely, the type of product that does not require or dictate any special care in its purchase. See, *for example*, Commerce Foods Inc. v. PLC Commerce Corporation, 212 USPQ 137, 142 *SDNY 1980); Paul F. Beich Company v. J&J Oven Company, Inc., 147 USPQ 162, 163-64 (TTAB 1965); and Storck USA L.P. v. Farley Candy Co Inc., 25 USPQ2d 1927, 1933 (NDII 1992) ["In fact, candy products are arguably one of the strongest impulse purchase items . . ."].

Further, the Board must find, as a matter of law, that Applicant's goods and Opposer's goods are provided by all classes of providers, under all marketing conditions, and are provided to and purchased by all classes of consumers appropriate to the goods identified. See Miles Labs, *supra*, 1 USPQ2d at 1450, and fn. 23 thereto.

¹⁵ Declaration Cohen ¶ 16.

¹⁶ Declaration Cohen ¶ 16 and exhibit 6 (copy of the referenced letter).

This factor strongly favors Opposer.

**6. The Extent of Potential Confusion,
i.e., Whether De Minimis Or Substantial**

When one considers:

- a) the virtual identity of the parties' marks;
- b) the legal identity between the parties' goods;
- c) the fact that the channels of trade necessarily overlap;
- d) the fact that the ultimate consumers necessarily overlap;
- e) the fact that the goods in issue are impulse type goods; and
- f) The evidence of confusion between Opposer and Applicant's parent

company, the Board can only conclude that there is a likelihood of confusion. See Freedom Savings And Loan Association v. Fidelity Bankers Life Insurance Company, 224 USPQ 300, 305 (TTAB 1984).

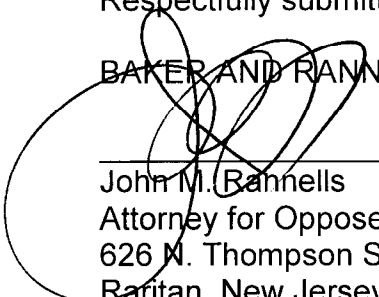
III. CONCLUSION

There being no genuine issue of material fact, summary judgment is appropriate. For the foregoing reasons, Opposer's motion for summary judgment should be granted and registration to Applicant refused.

Dated: July 14, 2004

Respectfully submitted,

BAKER AND RANNELLS PA



John M. Rannells
Attorney for Opposer
626 N. Thompson St.
Raritan, New Jersey 08869
(908) 722-5640

CERTIFICATE OF SERVICE

I hereby certify a copy of the foregoing **OPPOSER'S MOTION FOR SUMMARY JUDGMENT AND BRIEF IN SUPPORT THEREOF** in re: World Confections, Inc. v. Kencraft, Inc. Opp. No. 91/158,237 was served on counsel for Applicant, this 14TH day of July, 2004, by sending same via First Class Mail, postage prepaid, to:

Todd E. Zenger, Esq.
Kirtan & McConkie
1800 Eagle Gate Tower
60 East South Temple
Salt Lake City, Utah 84111

DATED: July 14, 2004



John M. Rannells

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Assistant Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202

Date of deposit: July 14, 2004

Name of Applicant, Assignee,
or Registered Representative: JOHN M. RANNELLS

Signature:  _____

Date of Signature: July 14, 2004

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

-----X
World Confections, Inc.

Opposer

Mark: ALPINE CONFECTIONS

v.

Opposition No.: 91/158,237

Kencraft Inc.

Application No. 76/362,977

Applicant
-----X

**DECLARATION OF JOHN M. RANNELLS IN SUPPORT OF
OPPOSER'S MOTION FOR SUMMARY JUDGMENT**



John M. Rannells declares and says:

07-19-2004

1. I am an attorney at law admitted to practice before the courts

U.S. Patent & TMO/c/TM Mail Rcpt Dt. #22

New York and New Jersey.

2. I am a partner in the law firm of Baker And Rannells PA. We maintain offices at 626 North Thompson Street, Raritan, New Jersey, and at 60 East 42nd St., Suite 817, New York, New York 10615. The firm and the undersigned represent the Opposer in the captioned proceeding.

3. I make this declaration in support of World Confections, Inc's ("Opposer") motion for summary judgment. I have personal knowledge of the facts set forth herein, and if called to testify, could and would testify competently thereto.

4. Accompanying this Declaration as Exhibit "1" is a copy of Opposer's Interrogatory No. 11 and Applicant's response thereto from Applicant's Responses To Opposer's Combined Second Set Of Interrogatories And Request For Production Of Documents (with cover and signature page) dated March 31, 2004. The exhibit is

relevant to the earliest date and the constructive date of first use that Applicant may rely upon in this proceeding.

5. Accompanying this Declaration as Exhibit "2" are copies of Opposer Requests to Admit 1-6, Opposer's Interrogatories 12-16, and Applicant's responses to all the foregoing from Applicant's Responses To Opposer's First Combined Request for Admissions, Interrogatories, And Demand for Documents (with cover and signature page) dated April 30, 2004. The exhibit is relevant to the earliest date and the constructive date of first use that Applicant may rely upon in this proceeding.

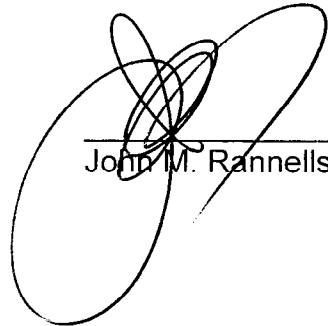
6. Accompanying this Declaration as Exhibit "3" are copies of Opposer's Interrogatories 1-3, Document Requests Nos. 2-5 and 10-13, and Applicant's responses thereto from Applicant's Responses To Opposer's Combined First Set Of Interrogatories And Request For Production Of Documents (with cover and signature page) dated March 8, 2004. The exhibit is relevant to the earliest date and the constructive date of first use that Applicant may rely upon in this proceeding.

7. Accompanying this Declaration as Exhibit "4" is a copy of Opposer's Interrogatory 7 and Applicant's response thereto from Applicant's Responses To Opposer's Combined First Set Of Interrogatories And Request For Production Of Documents (with cover and signature page) dated March 8, 2004. The exhibit is relevant to the similarity of channels of trade through which the parties' goods bearing the parties' respective marks are sold or are intended to be sold.

8. Accompanying this Declaration as Exhibit "5" are copies of downloads from the official Utah Department of Commerce web site business entity database showing the status of and the date of incorporation of (1) the Applicant's parent company, Alpine

Confections, Inc. and (2) Applicant's sister company, Alpine Confections Holdings, Inc. The exhibit is relevant to the earliest date and the constructive date of first use that Applicant may rely upon in this proceeding.

I declare under the penalty of perjury that the foregoing is true and correct and that this Declaration was executed on July 14, 2004.



John M. Rannells

CERTIFICATE OF SERVICE

I hereby certify a copy of the foregoing **DECLARATION OF JOHN M. RANNELLS IN SUPPORT OF OPPOSER'S MOTION FOR SUMMARY JUDGMENT** in re: World Confections, Inc. v. Kencraft, Inc. Opp. No. 91/158,237 was served on counsel for Applicant, this 14th day of July, 2004, by sending same via First Class Mail, postage prepaid, to:

Todd E. Zenger, Esq.
Kirtan & McConkie
1800 Eagle Gate Tower
60 East South Temple
Salt Lake City, Utah 84111

DATED: July 14, 2004



John M. Rannells

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Assistant Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202

Date of deposit: July 14, 2004

Name of Applicant, Assignee,
or Registered Representative: JOHN M. RANNELLS

Signature:  _____

Date of Signature: July 14, 2004

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

-----X
World Confections, Inc.

Opposer

Mark: ALPINE CONFECTIONS

v.

Opposition No.: 91/158,237

Kencraft Inc.

Application No. 76/362,977

Applicant

-----X

EXHIBIT 1

**IN THE UNITED STATES PATENT & TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Application Serial No. 76/362,977
Published in the Official Gazette of June 3, 2003 on page TM 441
International Class: 030
Filed: January 24, 2002
Mark: ALPINE CONFECTIONS

WORLD CONFECTIONS, INC. Opposer,	Opposition No. 91158237
vs.	APPLICANT'S RESPONSES TO OPPOSER'S COMBINED SECOND SET OF INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS
KENCRAFT, INC. Applicant.	

COMES NOW, Applicant, Kencraft, Inc., by and through its undersigned counsel, and pursuant to Rules 26 and 33 and 34, of the Federal Rules of Civil Procedure, responds to Opposer, World Confections, Inc.'s Combined Second Set of Interrogatories and Request for Production of Documents, and states as follows:

All general objections made in Applicant's Responses to Opposer's Combined 1st Set of Interrogatories and Requests for Production of Documents are continued herein.

INTERROGATORIES

INTERROGATORY NO. 9: Set forth all facts and identify all documents which support Applicant's un-numbered Second Affirmative Defense to the effect that Opposer's claims should be denied on the principle of unclean hands.

abandoned rights to assert senior, nationwide notice via the '736 Application. As a result, Opposer's zone of expansion is limited in accordance with those geographic areas, if any, in which Opposer has credible trademark use.

INTERROGATORY NO. 11: Set forth all facts and identify all documents support Applicant's claim that it has a proprietary interest in the mark ALPINE CONFECTIONS for any goods or services.

RESPONSE: Applicant objects to this interrogatory as it is a mixed question of fact and law. To the extent the interrogatory requires a legal response, opinion or position, Applicant is not required to respond. This interrogatory is a contention interrogatory. Furthermore, Applicant reserves the right to further discover facts and circumstances in support of this defense. Subject to Applicant's objection, Applicant provides the following response: See responses to Interrogatory Nos. 9 and 10. Applicant has the senior filing date of January 24, 2001. This gives Applicant senior right to nationwide notice and priority and proprietary interest in that right.

Redacted

DATED this 31st day of March, 2004.

KIRTON & McCONKIE

By: _____

Todd E. Zenger, Reg. No. 33,610

KIRTON & McCONKIE

1800 Eagle Gate Tower

60 East South Temple

Salt Lake City, Utah 84111

Phone: (801) 328-3600

Fax: (801) 31-4893

Attorney for Applicant
KENCRAFT, INC.

CERTIFICATE OF SERVICE

I hereby certify that on this 31st day of March, 2004, a true and correct copy of the foregoing APPLICANT'S COMBINED SECOND SET OF INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS was served on the following counsel, by United States mail, postage prepaid, in an envelope addressed as follows:

Stephen L. Baker
BAKER & RANNELLS, PA
626 North Thompson Street
Raritan, New Jersey 08869

Margaret Carlson

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

-----X
World Confections, Inc.

Opposer

Mark: ALPINE CONFECTIONS

v.

Opposition No.: 91/158,237

Kencraft Inc.

Application No. 76/362,977

Applicant

-----X

EXHIBIT 2

**IN THE UNITED STATES PATENT & TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Application Serial No. 76/362,977
Published in the Official Gazette of June 3, 2003 on page TM 441
International Class: 030
Filed: January 24, 2002
Mark: ALPINE CONFECTIONS

<p>WORLD CONFECTIONS, INC. Opposer,</p> <p>vs.</p> <p>KENCRAFT, INC. Applicant.</p>	<p>Opposition No. 91158237</p> <p>APPLICANT'S REPONSES TO OPPOSER'S FIRST COMBINED REQUEST FOR ADMISSIONS, INTERROGATORIES, AND DEMAND FOR DOCUMENTS</p>
---------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------

All general objections made in Applicant's Responses to Opposer's Combined 1st Set of Interrogatories and Requests for Production of Documents are continued herein.

REQUEST TO ADMIT 1: Admit that as of January 24, 2002 Applicant made no use of the mark ALPINE CONFECTIONS sufficient to give Applicant a proprietary interest therein.

RESPONSE: Denied. Applicant admits not making use of the mark as of January 24, 2002 in commerce only. However, Applicant's use of the application process including the mark and Applicant's senior filing date does give Applicant proprietary interest in nation-wide notice and potential protection via federal registration.

REQUEST TO ADMIT 2: Admit that Applicant did not establish use of ALPINE CONFECTIONS on or before June 30, 1997.

RESPONSE: Admit as to use of the mark in commerce.

REQUEST TO ADMIT 3: Admit that as of January 24, 2003 Alpine Confections Holding, Inc. made no use of the mark ALPINE CONFECTIONS sufficient to give Alpine Confections Holding, Inc. a proprietary interest therein.

RESPONSE: Admit.

REQUEST TO ADMIT 4: Admit that Alpine Confections Holding, Inc. did not use ALPINE CONFECTIONS on or before June 30, 1997.

RESPONSE: Admit.

REQUEST TO ADMIT 5: Admit that as of January 24, 2003 Alpine Confections, Inc. made no use of the mark ALPINE CONFECTIONS sufficient to give Alpine Confections Holding, Inc. a proprietary interest therein.

RESPONSE: Admit.

REQUEST TO ADMIT 6: Admit that Alpine Confections, Inc. did not establish use of ALPINE CONFECTIONS on or before June 30, 1997.

RESPONSE: Admit.

INTERROGATORY NO. 12: Unless the answers to the foregoing Demands for Admissions are in each case unqualified "Admit", set forth all facts and identify all documents supporting each and every denial.

RESPONSE: The Application is an intent-to-use application.

INTERROGATORY NO. 13: Set forth all facts and identify all documents that explain, refer to or otherwise relate to the relationship between Applicant and Alpine Confections Holding, Inc., a corporation of the state of Utah.

RESPONSE: They are sister entities under the parent Alpine Confections, Inc. This is evidenced by corporate organizational documents.

INTERROGATORY NO. 14: Set forth all facts and identify all documents which tend to show that Alpine Confections Holding, Inc. used or otherwise exploited the mark sought to be registered.

RESPONSE: None.

INTERROGATORY NO. 15: Set forth all facts and identify all documents that explain, refer to or otherwise relate to the relationship between Applicant and Alpine Confections Inc., a corporation of the state of Utah.

RESPONSE: See answer to Interrogatory No. 13.

INTERROGATORY NO. 16: Set forth all facts and identify all documents which tend to show that Alpine Confections, Inc. has used or otherwise exploited the mark sought to be registered.

RESPONSE: All use of ALPINE CONFECTIONS to date is to identify source through its trade name, *dba* of ALPINE CONFECTIONS.

Redacted

DATED this 30th day of April, 2004.

KIRTON & McCONKIE

By: Todd E. Zenger
Todd E. Zenger, Reg. No. 33,610
KIRTON & McCONKIE
1800 Eagle Gate Tower
60 East South Temple
Salt Lake City, Utah 84111
Phone: (801) 328-3600
Fax: (801) 31-4893

Attorney for Applicant
KENCRAFT, INC.

743445

CERTIFICATE OF SERVICE

I hereby certify that on this 30th day of April, 2004, a true and correct copy of the foregoing APPLICANT'S REPONSES TO OPPOSER'S FIRST COMBINED REQUEST FOR ADMISSIONS, INTERROGATORIES, AND DEMAND FOR DOCUMENTS was served on the following counsel, by United States mail, postage prepaid, in an envelope addressed as follows:

Stephen L. Baker
BAKER & RANNELLS, PA
626 North Thompson Street
Raritan, New Jersey 08869

Margaret Parker

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

-----X
World Confections, Inc.

Opposer

Mark: ALPINE CONFECTIONS

v.

Opposition No.: 91/158,237

Kencraft Inc.

Application No. 76/362,977

Applicant

-----X

EXHIBIT 3

**IN THE UNITED STATES PATENT & TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Application Serial No. 76/362,977
Published in the Official Gazette of June 3, 2003 on page TM 441
International Class: 030
Filed: January 24, 2002
Mark: ALPINE CONFECTIONS

WORLD CONFECTIONS, INC.
Opposer,

vs.

KENCRAFT, INC.
Applicant.

Opposition No. 91158237

**APPLICANT'S RESPONSES TO OPPOSER'S
COMBINED FIRST SET OF
INTERROGATORIES AND REQUEST FOR
PRODUCTION OF DOCUMENTS**

COMES NOW, Applicant, Kencraft, Inc., by and through its undersigned counsel, and pursuant to Rules 26 and 33 and 34, of the Federal Rules of Civil Procedure, responds to Opposer, World Confections, Inc.'s Combined Interrogatories and Request for Production of Documents, and states as follows:

PRELIMINARY STATEMENT

As used in these responses, the phrase "will produce" means that, subject to the general and specific objections set forth herein, Applicant will produce documents and things (hereinafter "documents") of the types or categories described to the extent that such documents exist and are within Applicant's possession, custody, and/or control. Applicant's statement that it "will produce" documents should not be construed as a statement or concession that such documents do in fact exist. The production of document or disclosure of information by examination of business records is not a waiver of any objection or right Applicant might have

Responses to Opposer's First Request for Production of Documents is a sufficient response. Copies of these documents have been copied and produced with Applicant's Supplemental Responses.

12. Applicant objects to Opposer's instructions/directions which seek to require more than the obligation imposed by law and would subject Applicant to unreasonable and undue annoyance, oppression, burden and expenses.

13. Applicant objects to providing or identifying confidential or proprietary business and/or competitive information. Any examination of such documents, information or things, if any, will be subject to a protective order.

INTERROGATORIES

INTERROGATORY NO. 1: Describe separately for each of Applicant's Goods, the inclusive dates, if any, during which each such product has been sold or distributed in the United States under Applicant's Mark.

RESPONSE: None to date, the application was filed as an intent-to-use application and no amendment alleging use has been filed.

INTERROGATORY NO. 2: Identify any and all representative tags, labels, packaging or other printed materials which are used, or which have been used, or are intended to be used in the United States by or on behalf of Applicant that bear Applicant's Mark and, with respect to each, identify the inclusive date(s) of use.

RESPONSE: None to date.

INTERROGATORY NO. 3: Identify each separate item of advertising or promotional material concerning or relating to Applicant's Mark used by or intended to be used by or on behalf of Applicant in the United States, and with respect to each, identify its inclusive dates of use.

RESPONSE: None to date.

Redacted

DOCUMENT REQUEST NO. 2: Produce documents sufficient to show Applicant's annual U.S. advertising and promotional expenses for Applicant's Goods sold under Applicant's Mark, from the date of first use of Applicant's Mark on Applicant's Goods to the present.

Response: None to date.

DOCUMENT REQUEST NO. 3 Produce all advertisements and/or promotional materials ever distributed or aired (and/or intended to be distributed or aired) in the United States concerning Applicant's Goods bearing Applicant's Mark.

Response: None to date.

DOCUMENT REQUEST NO. 4 Produce sufficient documents to show the annual dollar volume of sales in the United States of Applicant's Goods bearing Applicant's Mark, from the date of first use to present.

Response: None to date.

DOCUMENT REQUEST NO. 5 Produce sufficient documents to show the annual number of units sold in the United States of Applicant's Goods bearing Applicant's Mark, from the date of first use to present.

Response: None to date.

Redacted

DOCUMENT REQUEST NO. 10: Produce documents sufficient to identify all types of commercial establishments in which Applicant's Goods bearing Applicant's Mark are sold and/or are intended to be sold. *RE*

Response: None to date. Applicant has not yet formulated plans for distribution of goods bearing Mark.

DOCUMENT REQUEST NO. 11: Produce documents sufficient to identify all wholesalers, distributors, and agents involved in the sale and/or intended sale in the United States of Applicant's Goods bearing Applicant's Marks.

Response: None to date. Applicant has not yet formulated plans for distribution of goods bearing Mark.

DOCUMENT REQUEST NO. 12: Produce documents sufficient to identify a representative number of third party establishments in the United States at which Applicant's Goods bearing Applicant's Mark are sold and/or with whom a purchase order has issued for Applicant's Goods bearing Applicant's Mark.

Response: None to date.

DOCUMENT REQUEST NO. 13: Produce copies of all marketing, advertising, and promotional plans concerning Applicant's Goods sold and/or intended to be sold under Applicant's Mark.

Response: None to date.

DATED this 8th day of March, 2004.

KIRTON & McCONKIE

By: 

Todd E. Zenger, Reg. No. 33,610

KIRTON & McCONKIE

1800 Eagle Gate Tower

60 East South Temple

Salt Lake City, Utah 84111

Phone: (801) 328-3600

Fax: (801) 31-4893

Attorney for Applicant
KENCRAFT, INC.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

-----X
World Confections, Inc.

Opposer

Mark: ALPINE CONFECTIONS

v.

Opposition No.: 91/158,237

Kencraft Inc.

Application No. 76/362,977

Applicant

-----X

EXHIBIT 4

**IN THE UNITED STATES PATENT & TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Application Serial No. 76/362,977
Published in the Official Gazette of June 3, 2003 on page TM 441
International Class: 030
Filed: January 24, 2002
Mark: ALPINE CONFECTIONS

WORLD CONFECTIONS, INC.
Opposer,

vs.

KENCRAFT, INC.
Applicant.

Opposition No. 91158237

**APPLICANT'S RESPONSES TO OPPOSER'S
COMBINED FIRST SET OF
INTERROGATORIES AND REQUEST FOR
PRODUCTION OF DOCUMENTS**

COMES NOW, Applicant, Kencraft, Inc., by and through its undersigned counsel, and pursuant to Rules 26 and 33 and 34, of the Federal Rules of Civil Procedure, responds to Opposer, World Confections, Inc.'s Combined Interrogatories and Request for Production of Documents, and states as follows:

PRELIMINARY STATEMENT

As used in these responses, the phrase "will produce" means that, subject to the general and specific objections set forth herein, Applicant will produce documents and things (hereinafter "documents") of the types or categories described to the extent that such documents exist and are within Applicant's possession, custody, and/or control. Applicant's statement that it "will produce" documents should not be construed as a statement or concession that such documents do in fact exist. The production of document or disclosure of information by examination of business records is not a waiver of any objection or right Applicant might have

Redacted

INTERROGATORY NO. 7: Describe all types of commercial establishments in [which]
Applicant's Goods bearing Applicant's Mark are sold and/or are intended to be sold.

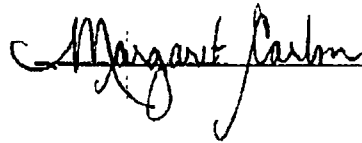
RESPONSE: Retail stores.

Redacted

CERTIFICATE OF SERVICE

I hereby certify that on this 8th day of March, 2004, a true and correct copy of the foregoing APPLICANT'S RESPONSES TO OPPOSER'S COMBINED FIRST SET OF INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS was served on the following counsel, by ^{facsimile and} United States mail, postage prepaid, in an envelope addressed as follows:

Stephen L. Baker
BAKER & RANNELLS, PA
626 North Thompson Street
Raritan, New Jersey 08869

_____

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

-----X
World Confections, Inc.

Opposer

Mark: ALPINE CONFECTIONS

v.

Opposition No.: 91/158,237

Kencraft Inc.

Application No. 76/362,977

Applicant

-----X

EXHIBIT 5



State Online Services

Agency List

Business.utah.gov

Search Utah.gov

GO

Utah Department of
Commerce

Business Entity Search

? Help

Name	Type	City	Status
ALPINE CONFECTIONS, INC.	Corporation	ALPINE	Active

Business Name:	ALPINE CONFECTIONS, INC.
Entity Number:	1459807-0142
Registration Date:	08/06/1999
State of Origin:	UT

Address

119 E 200 N
ALPINE, UT 84004

Status

Status:	Active
Status Description:	Good Standing
This Status Date:	
Last Renewed:	06/17/2004
License Type:	Corporation - Domestic - Profit
Delinquent Date:	08/06/2005

Registered Agent

Registered Agent:	DAVID L TAICLET
Address Line 1:	119 E 200 N
Address Line 2:	
City:	ALPINE
State:	UT
Zip:	84004

Additional Information

Additional Principals:	N
NAICS Code:	9999
NAICS Title:	9999-Nonclassifiable Establishment
Stock Class 1 Amount:	0010000000
Stock Class 1 Type:	COMMON
Stock Class 2 Amount:	0000000000
Stock Class 3 Amount:	0000000000
Stock Class 4 Amount:	0000000000
Stock Class 5 Amount:	0000000000
Stock Class 5 Type:	0000000000
Stock Class 6 Amount:	0000000000
Stock Class 6 Type:	0000000000

With this information, you can...

[Purchase Certificate of Existence](#)

If you would like to purchase a Certificate of Existence for this business entity, select the button to the left. You will be assessed a **\$12.00 fee** for this service. You will need Adobe Reader to view this certificate. If you do not have Adobe Reader, click on the button below and download it.



[Access Principal Information](#)

If you would like to receive information on the principal individuals associated with this entity, click the button on the left. You will be assessed a \$1.00 fee for this information.

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State Online Services

Agency List

Business.utah.gov

Search Utah.gov

GO

Utah Department of
Commerce

Business Entity Search

Help

Name	Type	City	Status
ALPINE CONFECTIONS HOLDINGS, INC.	Corporation	Alpine	Active

Business Name:	ALPINE CONFECTIONS HOLDINGS, INC.
Entity Number:	5276699-0142
Registration Date:	02/26/2003
State of Origin:	

Address

119 E 200 N
Alpine, UT 84004

Status

Status:	Active
Status Description:	Good Standing
This Status Date:	02/27/2004
Last Renewed:	04/16/2004
License Type:	Corporation - Domestic - Profit
Delinquent Date:	02/26/2005

Registered Agent

Registered Agent:	R TAZ MURRAY
Address Line 1:	119 E 200 N
Address Line 2:	
City:	Alpine
State:	UT
Zip:	84004

Additional Information

NAICS Code:	9999
NAICS Title:	9999-Nonclassifiable Establishment
Stock Class 1 Amount:	1,000
Stock Class 1 Type:	COMMON

With this information, you can...

Purchase Certificate of Existence

If you would like to purchase a Certificate of Existence for this business entity, select the button to the left. You will be assessed a **\$12.00 fee** for this service. You will need Adobe Reader to view this certificate. If you do not have Adobe Reader, click on the button below and download it.



Access Principal Information

If you would like to receive information on the principal individuals associated with this entity, click the button on the left. You will be assessed a **\$1.00 fee** for this information.

Cancel

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

-----X
World Confections, Inc.

Opposer

Mark: ALPINE CONFECTIONS

v.

Opposition No.: 91/158,237

Kencraft Inc.

Application No. 76/362,977

Applicant



07-19-2004

U.S. Patent & TMO/c/TM Mail Rcpt Dt. #22

**DECLARATION OF MATTHEW COHEN IN SUPPORT OF
OPPOSER'S MOTION FOR SUMMARY JUDGMENT**

Matthew Cohen, declares as follows:

1. I am the President of World Confections, Inc. ("WCI") of 185 30th Street, Brooklyn, New York 11232, the Opposer in the captioned proceeding.
2. I have been employed by WCI and its predecessor (Alpine USA Ltd.) and related company (World Candies, Inc.) since 1980. I both run and oversee all of the day-to-day operations of WCI.
3. I make this declaration in support of Opposer's motion for summary judgment granting Opposer's opposition to application Ser. No. 76/362977 for the mark ALPINE CONFECTIONS for candy.
4. I have personal knowledge of the facts set forth herein, and if called to testify, could and would testify competently thereto.
5. WCI was previously named Alpine USA Ltd. On January 24, 2002 a Certificate of Amendment of the Certificate of Incorporation of Alpine USA Ltd.

amending the name of the corporation to World Confections Inc. was filed with the New York State Division of Corporations. A copy of the Certificate of Amendment and filing receipt accompanies this declaration as Exhibit "1".

6. WCI is a manufacturer, importer and exporter of confectionery products, including without limitation, sugar confections in a box, gummi candy, gum, chocolate, lollipops, hand decorated jelly products, popping candy, Holiday candies, and licorice. Our products are sold under a variety of marks, for example, SWAMP BUDDIES (Reg. No. 2685218), RUDE DUDES (Reg. No. 2450995), SKIN CRITTERS (Reg. No. 1943193), DINOSAUR BONES (Reg. No. 1807782), and ALPINE CONFECTIONS (Ser. No. 76365845).

7. All sales of our gummi candy products have been sold under the mark ALPINE CONFECTIONS (and recently, as explained in paragraph 13 below, also under the mark ALPINE BRAND).

8. WCI owns pending trademark application Ser. No. 76/365845 for the mark ALPINE CONFECTIONS for fruit flavored gummy candy. The application is currently in suspension, pending the outcome of this opposition proceeding. WCI (as Alpine USA Ltd.) previously filed an application for the same mark (i.e., Ser. No. 76/007736) which inadvertently became abandoned, although use of the mark never ceased.

9. WCI has sold its ALPINE CONFECTIONS brand gummi candy since June of 1997. Sales of the product under the ALPINE CONFECTIONS mark have been continuous from June of 1997 to the present date. Accompanying this declaration as Exhibit "2" are true copies of representative invoices (prices redacted) from each year from 1997 to the present date, namely invoices dated 9/11/97, 1/19/98, 2/17/98,

1/04/99, 7/6/99, 1/10/00, 7/26/00, 3/14/01, 10/01/01, 10/04/01, 11/30/01, 3/18/02, 10/28/02, 1/08/03, 01/14/03.

10. Our ALPINE CONFECTIONS brand gummi candy is sold throughout the forty-eight (48) contiguous States, through all typical channels of trade, including without limitation, supermarkets, grocery stores, so-called mom and pop stores, drug stores, candy stores, delicatessens, convenience stores, and over the Internet, namely all types of retail outlets through which candy is typically sold.

11 Accompanying this Declaration, as Exhibit "3", are true copies of representative ALPINE CONFECTIONS product packaging that has been and/or is currently used by WCI for its gummi candy products.

12. Sales of WCI's ALPINE CONFECTIONS brand gummi products has grown from approximately \$850,000 in the year 1998 to between \$3 million and \$3.5 million for each of the past three years. As explained in paragraph 13 below, sales of our gummi products in 2003 and 2004 have been under both our ALPINE CONFECTIONS mark and our ALPINE BRAND mark.

13. Beginning in the late Spring of 2003, WCI began a temporary changeover from the mark ALPINE CONFECTIONS to the mark ALPINE BRAND. The changeover was commenced as a result of WCI receiving a number of communications from parties wondering if there was a relationship between WCI and Kencraft's parent company, Alpine Confections, Inc. In an attempt to avoid our customers being confused or making such a connection, WCI decided to temporarily change from ALPINE CONFECTIONS to simply ALPINE BRAND. The changeover is still in process,

however WCI intends to resume use of the mark ALPINE CONFECTIONS upon a decision in the present case.

14. Unfortunately, our attempts to avoid confusion and mistake have not been that successful. The May-June '04 edition of *Professional Candy Buyer* (the News & Trends section) contains an article about Kencraft's parent company entitled "Alpine Acquires Fannie May, Fannie Farmer Brands". The center and most prominent portion of the article contains an exact replica of WCI's distinct Alpine Confections logo (a fanciful pastoral scene with cottage, haystack, river, bridge, forest trees and mountains and the words ALPINE CONFECTIONS) which logo is used on WCI's ALPINE CONFECTIONS gummi products (see Ex. 3). Obviously, the trade is confused and/or mistaken as to the source of origin of ALPINE CONFECTIONS candy. Accompanying this Declaration as Exhibit "4" is a copy of the article.

15. The May-June '04 edition of *Professional Candy Buyer* was distributed at and made available to the participants and attendees of the National Confectioners Association ("NCA") "All Candy Expo 2004" trade show which was held June 8 – 10, 2004 at Lakeside Center, McCormick Place, Chicago, Illinois. Both WCI and Kencraft were in attendance at and had exhibit booths at the trade show. As stated on the All Candy Expo website (a copy of which accompanies this Declaration as Exhibit "5"):

The ALL CANDY EXPO®, sponsored by the National Confectioners Association, is the largest confectionery-only show in North America, and serves as the meeting place for the confectionery industry. The EXPO is a unique opportunity to buy, sell and network with industry professionals and decision makers. There were 480 exhibitors and more than 18,000 attendees at the 2004 event. . . . Attendees are buyers from all classes of trade including supermarkets, drug stores, vending, convenience stores, wholesalers, theaters, mass merchants, specialty and department

stores. Importers, exporters, suppliers, distributors and brokers also attend, making the EXPO the 'must attend' show of the year.

16. The appearance of our distinctive logo on and in an article about Kencraft's parent company during the most important trade show of the year, was a terrible embarrassment for WCI. Kencraft, however, is apparently unconcerned. On June 23, 2004, our attorney sent a letter to Kencraft complaining about the matter and demanding that the situation be corrected. Accompanying this Declaration as Exhibit "6" is a copy of said letter. To date, Kencraft has failed to respond. It has simply ignored the matter.

17. WCI is seeking, through the summary judgment procedure, an expedited resolution of the matter before the U.S. Trademark Trial & Appeal Board. We were using the mark on our gummi candy products prior to Kencraft filing its Intent to Use application and prior to the incorporation date of Kencraft's parent company Alpine Confections, Inc. or the incorporation date of Kencraft's sister company Alpine Confections Holdings, Inc. As such, WCI has priority of use of the mark. Further, confusion and/or mistake as to source of origin is apparently inevitable.

I declare under the penalty of perjury that the foregoing is true and correct and that this Declaration was executed on July 13, 2004.

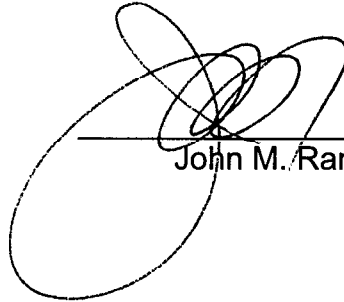

Matthew Cohen

CERTIFICATE OF SERVICE

I hereby certify a copy of the foregoing **DECLARATION OF MATTHEW COHEN IN SUPPORT OF OPPOSER'S MOTION FOR SUMMARY JUDGMENT** in re: World Confections, Inc. v. Kencraft, Inc. Opp. No. 91/158,237 was served on counsel for Applicant, this 14th day of July, 2004, by sending same via First Class Mail, postage prepaid, to:

Todd E. Zenger, Esq.
Kirtan & McConkie
1800 Eagle Gate Tower
60 East South Temple
Salt Lake City, Utah 84111

DATED: July 14, 2004



John M. Rannells

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Assistant Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202

Date of deposit: July 14, 2004

Name of Applicant, Assignee,
or Registered Representative: JOHN M RANNELLS

Signature:  _____

Date of Signature: July 14, 2004

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

-----X
World Confections, Inc.

Opposer

Mark: ALPINE CONFECTIONS

v.

Opposition No.: 91/158,237

Kencraft Inc.

Application No. 76/362,977

Applicant

-----X

EXHIBIT 1

New York State
Department of State
Division of Corporations, State Records
and Uniform Commercial Code
41 State Street
Albany, NY 12231

CERTIFICATE OF AMENDMENT
OF THE
CERTIFICATE OF INCORPORATION
OF

Alpine USA Ltd.

(Insert Name of Domestic Corporation)

Under Section 805 of the Business Corporation Law

FIRST: The name of the corporation is: Alpine USA Ltd.

If the name of the corporation has been changed, the name under which it was formed is: _____

SECOND: The date of filing of the certificate of incorporation with the Department of State is:
March 28, 1997

THIRD: (Set forth each amendment in a separate paragraph providing the subject matter and full text of each amended paragraph.) The amendment effected by this certificate of amendment is as follows:

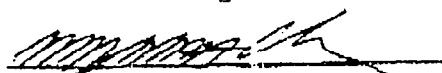
Paragraph 1 of the Certificate of Incorporation relating to the name of
the corporation

is hereby amended to read in its entirety as follows: The name of the corporation
is: World Confections Inc.

FOURTH: The certificate of amendment was authorized by: *[Check the appropriate box]*

☐ The vote of the board of directors followed by a vote of a majority of all outstanding shares entitled to vote thereon at a meeting of shareholders.

☒ The vote of the board of directors followed by the unanimous written consent of the holders of all outstanding shares.


(Signature)

Matthew Cohen

(Name and Capacity of Signer)
Director and Vice President

FILING RECEIPT

=====

ENTITY NAME: WORLD CONFECTIONS INC.

DOCUMENT TYPE: AMENDMENT (DOMESTIC BUSINESS)
NAME

COUNTY: KING

SERVICE COMPANY: ** NO SERVICE COMPANY **

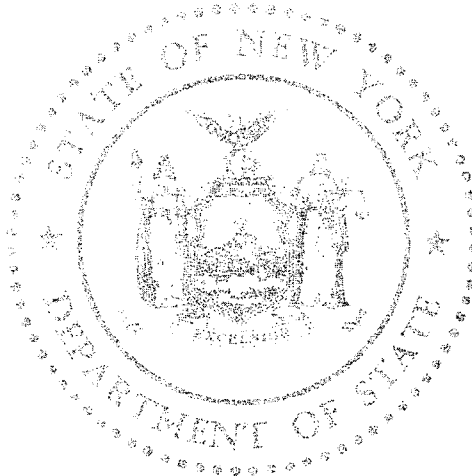
SERVICE CODE: 00

=====

FILED:01/24/2002 DURATION:***** CASH#:020124000610 FILM #:020124000598

ADDRESS FOR PROCESS

REGISTERED AGENT



=====

FILER	FEES	60.00	PAYMENTS	60.00
-----	----			-----
	FILING	60.00	CASH	0.00
STEPHEN L BAKER	TAX	0.00	CHECK	0.00
626 NORTH THOMPSON STREET	CERT	0.00	CHARGE	60.00
	COPIES	0.00	DRAWDOWN	0.00
RARITAN, NJ 08869	HANDLING	0.00	BILLED	0.00
			REFUND	0.00

=====

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

-----X
World Confections, Inc.

Opposer

Mark: ALPINE CONFECTIONS

v.

Opposition No.: 91/158,237

Kencraft Inc.

Application No. 76/362,977

Applicant

-----X

EXHIBIT 2



Alpine Confections

185 30th St. Brooklyn, NY USA 11232

Phone: (718) 768-8882 • Fax: (718) 788-7902 • Toll Free: (888) 750-4455

INVOICE

DATE	NUMBER
09/11/97	933581

ACCOUNT NO.:

1763903

SOLD TO
ANPESIL DIST.
7001 ROUSTEIN AVENUE

NORTH BERGEN NJ 07047

SHIPPED TO
ANPESIL DIST.
7001 ROUSTEIN AVENUE

NORTH BERGEN NJ 07047

CARRIER: SAFEWAY (1)

DEPT.	DATE SHIPPED	CUSTOMER ORDER NO.	ORDER DATE	SALESPERSON	TERMS			
	09/11/97	WC-0905	09/09/97	04 GOLICK/MA	1 % 15 Net 30			
NO. OF CASES	WEIGHT	SHIPPED FROM	FREIGHT CHARGES					
40	1400	3	PREPAID					
CASES	PRODUCT NO.	UNITS/CASES	U/M	DESCRIPTION	TOTAL UNITS	UNIT PRICE	DISC. PER UNIT	NET AMOUNT
10	03301	8	TB	SOUR STRAPZ-CHERRY/COLA	80			
30	03304	8	TB	SOUR STRAPZ-STRWBRY/KIWI	240			

COPY

COPY

REMIT  IF THIS INVOICE IS PAID BY 09/26/97

PLEASE SEE NOTES RE: CLAIMS, RETURNS, GUARANTEES AND CERTIFICATION ON REVERSE OF THIS INVOICE.

TOTAL DUE

TO ENSURE PROPER CREDIT, PLEASE DETACH AT PERFORATION AND ENCLOSE THIS STUB WITH YOUR REMITTANCE

Make checks payable to:
ALPINE USA LTD.
185 30th STREET
BROOKLYN, NY 11232

ACCOUNT NUMBER

1763903

INVOICE NUMBER

933581

AMOUNT ENCLOSED

\$

CUSTOMER



Alpine Confections

185 30th St. Brooklyn, NY USA 11232

Phone: (718) 768-8882 • Fax: (718) 788-7902 • Toll Free: (888) 750-4455

INVOICE

DATE	NUMBER
01/19/98	933606

ACCOUNT NO.:

1783890

SOLD TO
99 CENTS ONLY STORE
4000 UNION PACIFIC AVENUE
CITY OF COMMERCE CA 90023

SHIPPED TO
99 CENTS ONLY STORE
4000 UNION PACIFIC AVENUE
CITY OF COMMERCE CA 90023

CARRIER: LA PIER

DEPT.		DATE SHIPPED		CUSTOMER ORDER NO.		ORDER DATE		SALESPERSON		TERMS	
		01/19/98		75856		12/02/97		06 LICHT		% Net 30	
NO. OF CASES		WEIGHT		SHIPPED FROM		FREIGHT CHARGES					
3330		46620		5		COLLECT					
CASES	PRODUCT NO.	UNITS/CASES	U/M	DESCRIPTION		TOTAL UNITS	UNIT PRICE	DISC. PER UNIT	NET AMOUNT		
366	01610	24	BG	8oz GUMMI BEARS-BAG		8784					
366	01611	24	BG	8oz GUMMI WORMS - BAG		8784					
966	01612	24	BG	8oz NEON GUMMI BEARS-BAG		23184					
966	01613	24	BG	8oz GUMMI GLOW WORMS-BAG		23184					
666	01615	24	BG	8oz GUMMI PEACH RINGS-BA		15984					
COPY											

COPY

REMIT [REDACTED] IF THIS INVOICE IS PAID BY 01/19/98

PLEASE SEE NOTES RE: CLAIMS, RETURNS, GUARANTEES AND CERTIFICATION ON REVERSE OF THIS INVOICE.

TOTAL DUE

TO ENSURE PROPER CREDIT, PLEASE DETACH AT PERFORATION AND ENCLOSE THIS STUB WITH YOUR REMITTANCE

Make checks payable to:
ALPINE USA LTD.
185 30th STREET
BROOKLYN, NY 11232

ACCOUNT NUMBER

1783890

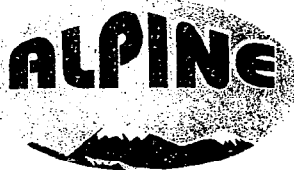
INVOICE NUMBER

933606

AMOUNT ENCLOSED

\$

CUSTOMER



Alpine Confections

185 30th St. Brooklyn, NY USA 11232

Phone: (718) 768-8882 • Fax: (718) 788-7902 • Toll Free: (888) 750-4455

INVOICE

DATE	NUMBER
02/17/98	933609

ACCOUNT NO.:

1646893

SOLD TO
DOLLAR TREE/ONLY \$1.00
500 VOLVO PARKWAY

CHESAPEAKE VA 23320

SHIPPED TO
DOLLAR TREE/ONLY \$1.00
MEMPHIS DOLLAR TREE
7860 HACKS CROSS ROAD
OLIVE BRANCH MS 38654

CARRIER: PIER SAVANA

DEPT.	DATE SHIPPED	CUSTOMER ORDER NO.	ORDER DATE	SALESPERSON		TERMS		
	02/17/98	19811-00002	12/09/97	94	SHINNAMON	%	Net 30	
NO. OF CASES		WEIGHT	SHIPPED FROM				FREIGHT CHARGES	
3330	46620	5	COLLECT					
ASES	PRODUCT NO.	UNITS/ CASES	U / M	DESCRIPTION	TOTAL UNITS	UNIT PRICE	DISC. PER UNIT	NET AMOUNT
565	01612	24	BG	8oz NEON GUMMI BEARS-BAG	13560			
1100	01613	24	BG	8oz GUMMI GLOW WORMS-BAG	26400			
1100	01615	24	BG	8oz GUMMI PEACH RINGS-BA	26400			
565	01616	24	BG	8oz GUMMI APPLE RINGS-BA	13560			

COPY

COPY

REMIT ~~XXXXXXXXXX~~ IF THIS INVOICE IS PAID BY 02/17/98

PLEASE SEE NOTES RE: CLAIMS, RETURNS, GUARANTEES AND CERTIFICATION ON REVERSE OF THIS INVOICE.

TOTAL DUE

TO ENSURE PROPER CREDIT, PLEASE DETACH AT PERFORATION AND ENCLOSE THIS STUB WITH YOUR REMITTANCE ↑

Make checks payable to:

ALPINE USA LTD.

185 30th STREET
BROOKLYN, NY 11232

ACCOUNT NUMBER

1646893

INVOICE NUMBER

933609

AMOUNT ENCLOSED

\$

CUSTOMER



Alpine Confections

185 30th St. Brooklyn, NY USA 11232

Phone: (718) 768-8882 • Fax: (718) 788-7902 • Toll free: (888) 750-4455

INVOICE

DATE	NUMBER
01/04/99	933660

ACCOUNT NO.:

1646230

SOLD TO
DOLLAR TREE/ONLY \$1.00
500 VOLVO PARKWAY
CHESAPEAKE VA 23320

SHIPPED TO
DOLLAR TREE DISTRIBUTION, INC.
GREENBRIER, DOLLAR TREE
1330 EXECUTIVE BLVD
CHESAPEAKE VA 23320-000

CARRIER: NORFOLK PIE

DEPT.	DATE SHIPPED	CUSTOMER ORDER NO.	ORDER DATE	SALESPERSON	TERMS			
	01/04/99	27303-00001	10/26/98	94 SHINNAMON	% Net 30			
NO. OF CASES	WEIGHT	SHIPPED FROM	FREIGHT CHARGES					
3330	46620	7	COLLECT					
CASES	PRODUCT NO.	UNITS/CASES	U/M	DESCRIPTION	TOTAL UNITS	UNIT PRICE	DISC. PER UNIT	NET AMOUNT
370	01612	24	BG	NEON GUMMI BEARS-8oz BAG	8880			
407	01613	24	BG	GUMMI GLOW WORMS-8oz BAG	9768			
333	01615	24	BG	GUMMI PEACH RINGS-8oz BA	7992			
666	01617	24	BG	GUMMI BUGZ- 7oz BAG	15984			
444	01618	24	BG	NEON GUMMI GATORS-7oz BA	10656			
777	01619	24	EA	GUMMI LIZARDS, 7oz BAG	18648			
333	01620	24	BG	GUMMI FROGS, 7oz BAG	7992			
COPY								
REMIT			IF THIS INVOICE IS PAID BY			01/04/99		
PLEASE SEE NOTES RE: CLAIMS, RETURNS, GUARANTEES AND CERTIFICATION ON REVERSE OF THIS INVOICE.								
TOTAL DUE								

TO ENSURE PROPER CREDIT, PLEASE DETACH AT PERFORATION AND ENCLOSE THIS STUB WITH YOUR REMITTANCE

Make checks payable to:
ALPINE USA LTD.
185 30th STREET
BROOKLYN, NY 11232

ACCOUNT NUMBER

1646230

INVOICE NUMBER

933660

AMOUNT ENCLOSED

\$

CUSTOMER



Alpine Confections

185 30th St. Brooklyn, NY USA 11232

Phone: (718) 768-8882 • Fax: (718) 788-7902 • Toll Free: (888) 750-4455

INVOICE

DATE	NUMBER
07/06/99	933681

ACCOUNT NO.:

1526359

SOLD TO
SAVE-A-LOT STORES INC.
P.O. BOX 809

BRIDGETON MO 63045-0809

SHIPPED TO
SAVE-A-LOT STORES
2 VAN BUREN BLVD
BLDG. 8
GUILDERLAND CTR NY 12085

CARRIER: CHAMPION (1

DEPT.		DATE SHIPPED		CUSTOMER ORDER NO.		ORDER DATE		SALESPERSON		TERMS	
		07/06/99		11025858-1		06/01/99		81 GRABBE-LE		1 % 30 Net 31	
NO. OF CASES		WEIGHT		SHIPPED FROM						FREIGHT CHARGES	
120		1440		3						PREPAID	
CASES	PRODUCT NO.	UNITS/ CASES	U / M	DESCRIPTION			TOTAL UNITS	UNIT PRICE	DISC. PER UNIT	NET AMOUNT	
120	18101	24	BG	24-70Z GUMMI ASST CASE			2880				
COPY											

COPY

REMIT

IF THIS INVOICE IS PAID BY 08/05/99

PLEASE SEE NOTES RE: CLAIMS, RETURNS, GUARANTEES AND CERTIFICATION ON REVERSE OF THIS INVOICE.

TOTAL DUE

TO ENSURE PROPER CREDIT, PLEASE DETACH AT PERFORATION AND ENCLOSE THIS STUB WITH YOUR REMITTANCE

Make checks payable to:
ALPINE USA LTD.
185 30th STREET
BROOKLYN, NY 11232

ACCOUNT NUMBER

1526359

INVOICE NUMBER

933681

AMOUNT ENCLOSED

\$

CUSTOMER



Alpine Confections

185 30th St. Brooklyn, NY USA 11232

Phone: (718) 768-8882 • Fax: (718) 788-7932 • Toll Free: (888) 750-4455

INVOICE

DATE	NUMBER
01/10/00	933744

ACCOUNT NO.:

COPY

1398261

5010
100

VALUE CITY MERCHANTS WHSE
ATTN: AP MERCHANDISE DEPT.
3241 WESTERVILLE ROAD
COLUMBUS OH 43224

SHIPPED
TO

VALUE CITY MERCHANTS WHSE
4310 E. FIFTH AVENUE

COLUMBUS OH 43219

CARRIER: SAFEWAY

DEPT	DATE SHIPPED	CUSTOMER ORDER NO.	ORDER DATE	SALESPERSON	TERMS			
	01/10/00	708012	11/09/99	68 ALL-STATE	1 % 15 Net 30			
NO. OF CASES	WEIGHT	SHIPPED FROM	FREIGHT CHARGES					
1097	15358	3	PREPAID					
CASES	PRODUCT NO	UNITS/CASES	U / M	DESCRIPTION	TOTAL UNITS	UNIT PRICE	DISC. PER UNIT	NET AMOUNT
300	01613	24	BG	GUMMI GLOW WORMS-7oz BAG	7200			
230	01619	24	EA	GUMMI LIZARDS, 7oz BAG	5520			
231	01620	24	BG	GUMMI FROGS, 7oz BAG	5544			
236	01621	24	BG	STRAWBERRY PUFFS- 7 OZ	5664			
100	01610	24	BG	GUMMI BEARS-7oz BAG	2400			

PERMIT

IF THIS INVOICE IS PAID BY 01/25/00

PLEASE SEE NOTES RE: CLAIMS, RETURNS, GUARANTEES AND CERTIFICATION ON REVERSE OF THIS INVOICE

TOTAL DUE

TO ENSURE PROPER CREDIT, PLEASE DETACH AT PERFORATION AND ENCLOSE THIS STUB WITH YOUR REMITTANCE

Checks payable to:
ALPINE USA LTD.
185 30th STREET
BROOKLYN, NY 11232

ACCOUNT NUMBER

1398261

INVOICE NUMBER

933744

AMOUNT ENCLOSED

\$

CUSTOMER



Alpine Confections

185 30th St. Brooklyn, NY USA 11232

Phone: (718) 768-8882 • Fax: (718) 788-7902 • Toll Free: (888) 750-4455

INVOICE

DATE	NUMBER
07/26/00	933851

ACCOUNT NO.:

COPY

1018051

SOLD TO
UNIVERSAL INTERNATIONAL, INC.
5000 WINNETKA AVE N.

SHIPPED TO
ONLY DEALS, INC.
5000 WINNETKA AVE, N.

NEW HOPE MN 55428

NEW HOPE, MN 55428

CARRIER: CHAMPION (1

DEPT.		DATE SHIPPED		CUSTOMER ORDER NO.		ORDER DATE		SALESPERSON		TERMS	
		07/26/00		33153		06/02/00		06 LICHT		1 % 15 Net 3	
NO. OF CASES		WEIGHT		SHIPPED FROM		FREIGHT CHARGES					
3750		52500		7							
						PREPAID					
CASES	PRODUCT NO.	UNITS/ CASES	U / M	DESCRIPTION			TOTAL UNITS	UNIT PRICE	DISC. PER UNIT	NET AMOUNT	
468	01616	24	BG	GUMMI APPLE RINGS-7oz BA			11232				
468	01610	24	BG	GUMMI BEARS-7oz BAG			11232				
468	01613	24	BG	GUMMI SOUR WORMS-7oz BAG			11232				
468	01612	24	BG	NEON GUMMI BEARS-7oz BAG			11232				
468	01615	24	BG	GUMMI PEACH RINGS-8oz BA			11232				
468	01611	24	BG	GUMMI WORMS - 7oz BAG			11232				
474	01623	24	BG	SOUR "RUDE DUDES" 7oz			11376				
468	01621	24	BG	STRAWBERRY PEAKS- 7 OZ			11232				

REMIT [REDACTED] IF THIS INVOICE IS PAID BY 08/10/00 [REDACTED]

PLEASE SEE NOTES RE: CLAIMS, RETURNS, GUARANTEES AND CERTIFICATION ON REVERSE OF THIS INVOICE.

TOTAL DUE

TO ENSURE PROPER CREDIT, PLEASE DETACH AT PERFORATION AND ENCLOSE THIS STUB WITH YOUR REMITTANCE

Make checks payable to:
ALPINE USA LTD.
185 30th STREET
BROOKLYN, NY 11232

ACCOUNT NUMBER

1018051

INVOICE NUMBER

933851

AMOUNT ENCLOSED

\$



Alpine Confections

185 30th St. Brooklyn, NY USA 11232

Phone: (718) 768-8882 • Fax: (718) 788-7902 • Toll Free: (888) 750-4455

INVOICE

DATE	NUMBER
03/14/01	933963

ACCOUNT NO.:

1783890

SOLD TO
99 CENTS ONLY STORE
4000 UNION PACIFIC AVENUE
CITY OF COMMERCE CA 90023

SHIPPED TO
99 CENTS ONLY STORE
4000 UNION PACIFIC AVENUE
CITY OF COMMERCE CA 90023

CARRIER: L.A. PIER

DEPT.	DATE SHIPPED	CUSTOMER ORDER NO.	ORDER DATE	SALESPERSON	TERMS			
	03/14/01	121309	12/13/00	06 LICHT	% Net 30			
NO. OF CASES	WEIGHT	SHIPPED FROM	FREIGHT CHARGES					
3750	52500	7	PREPAID					
CASES	PRODUCT NO.	UNITS/CASES	U/M	DESCRIPTION	TOTAL UNITS	UNIT PRICE	DISC. PER UNIT	NET AMOUNT
600	01615	24	BG	GUMMI PEACH RINGS-8oz BA	14400			
550	01613	24	BG	GUMMI SOUR WORMS-7oz BAG	13200			
600	01612	24	BG	NEON GUMMI BEARS-7oz BAG	14400			
550	01611	24	BG	GUMMI WORMS - 7oz BAG	13200			
550	01610	24	BG	GUMMI BEARS-7oz BAG	13200			
440	01621	24	BG	STRAWBERRY PEAKS- 7 OZ	10560			
460	01623	24	BG	SOUR "RUDE DUDES" 7oz	11040			
COPY								
REMIT [REDACTED] IF THIS INVOICE IS PAID BY 03/14/01					[REDACTED]			
PLEASE SEE NOTES RE: CLAIMS, RETURNS, GUARANTEES AND CERTIFICATION ON REVERSE OF THIS INVOICE.					TOTAL DUE			

TO ENSURE PROPER CREDIT, PLEASE DETACH AT PERFORATION AND ENCLOSE THIS STUB WITH YOUR REMITTANCE

Make checks payable to:
ALPINE USA LTD.
185 30th STREET
BROOKLYN, NY 11232

ACCOUNT NUMBER
1783890

INVOICE NUMBER
933963

AMOUNT ENCLOSED
\$

CUSTOMER



Alpine Confections

185 30th St. Brooklyn, NY USA 11232

Phone: (718) 768-8882 • Fax: (718) 788-7902 • Toll Free: (888) 750-4455

INVOICE

DATE	NUMBER
10/01/01	934214

ACCOUNT NO.:

COPY

1766449

SOLD
TO

WAKEFERN FOOD CORP/GROC. WHSE
600 YORK STREET

SHIPPED
TO

WAKEFERN FOOD CORP.
%DAYTON DISTR. CTR/60 TOWER RD

ELIZABETH NJ 07207-0506

DAYTON NJ 08810

CARRIER: SAFEWAY (1)

DEPT.		DATE SHIPPED		CUSTOMER ORDER NO.		ORDER DATE		SALESPERSON		TERMS	
		10/01/01		01255218		07/06/01		04 GOLICK/MA		1 % 15 Net 3	
NO. OF CASES		WEIGHT		SHIPPED FROM							FREIGHT CHARGES
864		10368		3							PREPAID
CASES	PRODUCT NO.	UNITS/ CASES	U / M	DESCRIPTION			TOTAL UNITS	UNIT PRICE	DISC. PER UNIT	NET AMOUNT	
288	09615	24	BG	GUMMI PEACH RINGS-CLIP S			6912				
288	09621	24	BG	STRAWBERRY PEAKS-CLIP ST			6912				
192	09612	24	BG	GUMMI NEON BEARS-CLIP ST			4608				
96	09613	24	BG	GUMMI SOUR WORMS-CLIP ST			2304				

REMIT

IF THIS INVOICE IS PAID BY 10/16/01

PLEASE SEE NOTES RE: CLAIMS, RETURNS, GUARANTEES AND CERTIFICATION ON REVERSE OF THIS INVOICE.

TOTAL DUE

TO ENSURE PROPER CREDIT, PLEASE DETACH AT PERFORATION AND ENCLOSE THIS STUB WITH YOUR REMITTANCE

Make checks payable to:

ALPINE USA LTD.
185 30th STREET
BROOKLYN, NY 11232

ACCOUNT NUMBER

1766449

INVOICE NUMBER

934214

AMOUNT ENCLOSED

\$



Alpine Confections

185 30th St. Brooklyn, NY USA 11232

Phone: (718) 768-8882 • Fax: (718) 788-7902 • Toll Free: (888) 750-4455

INVOICE

DATE	NUMBER
10/04/01	934315

ACCOUNT NO.:

COPY

1819364

SOLD TO
CASEY'S GENERAL STORE, INC.
% DISTR. CTR. P.O. BOX 3001
ONE CONVIENCE BLVD
ANKENY IA 50021-0030

SHIPPED TO
CASEY'S GENERAL STORE, INC.
% DISTR. CTR. P.O. BOX 3001
ONE CONVIENCE BLVD
ANKENY IA 50021-0030

CARRIER: ROADWAY (1)

DEPT.		DATE SHIPPED		CUSTOMER ORDER NO.		ORDER DATE		SALESPERSON		TERMS	
		10/04/01		123456		10/02/01		66 KEY SALES		1 % 15 Net 3	
NO. OF CASES		WEIGHT		SHIPPED FROM		FREIGHT CHARGES					
960		6720		3							
						PREPAID					
CASES	PRODUCT NO.	UNITS/ CASES	U / M	DESCRIPTION			TOTAL UNITS	UNIT PRICE	DISC. PER UNIT	NET AMOUNT	
190	01210	12	BG	GUMMI BEARS-7OZ BAG			2280				
200	01211	12	BG	GUMMI WORMS - 7 OZ BAG			2400				
300	01221	12	BG	STRAWBERRY PEAKS-7OZ BAG			3600				
270	01220	12	BG	GUMMI FROGS - 7 OZ BAG			3240				

REMIT XXXXXXXXXX IF THIS INVOICE IS PAID BY 10/19/01

PLEASE SEE NOTES RE: CLAIMS, RETURNS, GUARANTEES AND CERTIFICATION ON REVERSE OF THIS INVOICE.

TOTAL DUE

↑ TO ENSURE PROPER CREDIT, PLEASE DETACH AT PERFORATION AND ENCLOSE THIS STUB WITH YOUR REMITTANCE

Make checks payable to:
ALPINE USA LTD.
185 30th STREET
BROOKLYN, NY 11232

ACCOUNT NUMBER

1819364

INVOICE NUMBER

934315

AMOUNT ENCLOSED

\$



Alpine Confections

185 30th St. Brooklyn, NY USA 11232

Phone: (718) 768-8882 • Fax: (718) 788-7902 • Toll Free: (888) 750-4455

INVOICE

DATE	NUMBER
11/30/01	934363

ACCOUNT NO.:

COPY

1819488

SOLD TO
PALMER CANDY
311 BLUFF STREET

SHIPPED TO
PALMER CANDY COMAPNY
605 WESLEY WAY

SIOUX CITY IA 51102

SIOUX CITY IA 51102-0326

CARRIER: ROADWAY (1)

DEPT.		DATE SHIPPED		CUSTOMER ORDER NO.		ORDER DATE		SALESPERSON		TERMS	
		11/30/01		4551		11/21/01		66 KEY SALES		1 % 15 Net 3	
NO. OF CASES		WEIGHT		SHIPPED FROM							FREIGHT CHARGES
920		6440		3							PREPAID
CASES	PRODUCT NO.	UNITS/ CASES	U / M	DESCRIPTION			TOTAL UNITS	UNIT PRICE	DISC. PER UNIT	NET AMOUNT	
240	01210	12	BG	GUMMI BEARS-7OZ BAG			2880				
240	01211	12	BG	GUMMI WORMS - 7 OZ BAG			2880				
440	01221	12	BG	STRAWBERRY PEAKS-7OZ BAG			5280				

REMIT [REDACTED] IF THIS INVOICE IS PAID BY 12/15/01

PLEASE SEE NOTES RE: CLAIMS, RETURNS, GUARANTEES AND CERTIFICATION ON REVERSE OF THIS INVOICE.

TOTAL DUE

TO ENSURE PROPER CREDIT, PLEASE DETACH AT PERFORATION AND ENCLOSE THIS STUB WITH YOUR REMITTANCE

Make checks payable to:

ALPINE USA LTD.

185 30th STREET
BROOKLYN, NY 11232

ACCOUNT NUMBER

1819488

INVOICE NUMBER

934363

AMOUNT ENCLOSED

\$

WORLD

confections Inc.

185 30th Street
Brooklyn, N.Y. 11232, U.S.A.
Tel.: (718) 768-8100
Fax: (718) 499-4918
Toll Free: 1-800-252-2639
E-mail: info@worldconfections.com

INVOICE

DATE	NUMBER
03/18/02	934849

COPY

ACCOUNT NO.: 1467026

SOLD TO
DOLGENCORP, INC.
ATTN: ACCOUNTS PAYABLE
100 MISSION RIDGE
GOODLETSVILLE TN 37072

SHIPPED TO
DOLLAR GENERAL DISTRIBUTION CTR
2505 EAST POINTE DRIVE
ZANESVILLE OH 43701

CARRIER: ROADWAY

DEPT.		DATE SHIPPED		CUSTOMER ORDER NO.		ORDER DATE		SALESPERSON		TERMS	
		03/18/02		DNYFCF		03/14/02		71 .05 MIKE ALEX		% NET 30	
NO. OF CASES		WEIGHT		SHIPPED FROM							FREIGHT CHARGES
400		2800		3							PREPAID
CASES	PRODUCT NO.	UNITS/CASES	U/M	DESCRIPTION			TOTAL UNITS	UNIT PRICE	DISC. PER UNIT	NET AMOUNT	
400	01221D	12	BG	STRAWBERRY PEAKS-70Z D.G			4800				

REMIT XXXXXXXXXX IF THIS INVOICE IS PAID BY 03/18/02

PLEASE SEE NOTES RE: CLAIMS, RETURNS, GUARANTEES AND CERTIFICATION ON REVERSE OF THIS INVOICE.

TOTAL DUE

TO ENSURE PROPER CREDIT, PLEASE DETACH AT PERFORATION AND ENCLOSE THIS STUB WITH YOUR REMITTANCE

WORLD CONFECTIONS INC.
185 30th STREET
BROOKLYN, N.Y. 11232

ACCOUNT NUMBER

1467026

INVOICE NUMBER

934849

AMOUNT ENCLOSED

\$

NUMERICAL FILE

WORLD

confections Inc.

185 30th Street
Brooklyn, N.Y. 11232, U.S.A.
Tel.: (718) 768-8100
Fax: (718) 499-4918
Toll Free: 1-800-252-2639
E-mail: info@worldconfections.com

INVOICE

DATE	NUMBER
10/28/02	936077

COPY

ACCOUNT NO.: 1783890

SOLD TO 99 C ONLY STORES
4000 UNION PACIFIC AVENUE
CITY OF COMMERCE CA 90023

SHIPPED TO 99 C ONLY STORES
4000 UNION PACIFIC AVENUE
CITY OF COMMERCE CA 90023

CARRIER: ROADWAY

DEPT.	DATE SHIPPED	CUSTOMER ORDER NO.	ORDER DATE	SALESPERSON	TERMS			
	10/28/02	169839	07/23/02	06 LICHT	% NET 30			
NO. OF CASES	WEIGHT	SHIPPED FROM	FREIGHT CHARGES					
3820	53480	7	PREPAID					
CASES	PRODUCT NO.	UNITS/CASES	U/M	DESCRIPTION	TOTAL UNITS	UNIT PRICE	DISC. PER UNIT	NET AMOUNT
655								
675	01610	24	BG	GUMMI BEARS-7oz BAG	16200			
700	01612	24	BG	NEON GUMMI BEARS-7oz BAG	16800			
500	01613	24	BG	GUMMI SOUR WORMS-7oz BAG	12000			
650	01615	24	BG	GUMMI PEACH RINGS-7oz BA	15600			
600	01616	24	BG	GUMMI APPLE RINGS-7oz BA	14400			
695	01623	24	BG	SOUR "RUDE DUDES" 7oz	16680			

REMIT [REDACTED] IF THIS INVOICE IS PAID BY 10/28/02

PLEASE SEE NOTES RE: CLAIMS, RETURNS, GUARANTEES AND CERTIFICATION ON REVERSE OF THIS INVOICE.

TOTAL DUE

TO ENSURE PROPER CREDIT, PLEASE DETACH AT PERFORATION AND ENCLOSE THIS STUB WITH YOUR REMITTANCE

WORLD CONFECTIONS INC.
185 30th STREET
BROOKLYN, N.Y. 11232

ACCOUNT NUMBER

1783890

INVOICE NUMBER

936077

AMOUNT ENCLOSED

\$

NUMERICAL DATE

WORLD

confections Inc.

185 30th Street
Brooklyn, N.Y. 11232, U.S.A.
Tel.: (718) 768-8100
Fax: (718) 499-4918
Toll Free: 1-800-252-2639
E-mail: info@worldconfections.com

INVOICE

DATE	NUMBER
01/08/03	935615

COPY

ACCOUNT NO.: 1646915

SOLD TO
DOLLAR TREE/ONLY \$1.00
500 VOLVO PARKWAY
CHESAPEAKE VA 23320

SHIPPED TO
DOLLAR TREE/ONLY \$1.00
WOODRIDGE DC 3
2500 INTERNATIONALE PKWY
WOODRIDGE IL 60517

CARRIER: F.O.B. ILL

DEPT.		DATE SHIPPED		CUSTOMER ORDER NO.		ORDER DATE		SALESPERSON		TERMS	
		01/08/03		148290-99003		06/19/02		93 ROY PUTZE		% NET 30	
NO. OF CASES		WEIGHT		SHIPPED FROM							FREIGHT CHARGES
1787		28592		3							COLLECT
CASES	PRODUCT NO.	UNITS/ CASES	U / M	DESCRIPTION			TOTAL UNITS	UNIT PRICE	DISC. PER UNIT	NET AMOUNT	
1787	01950	24	BG	GUMMI BEARS-9.50Z BAG			42888				
VENDOR # 23987											

REMIT [REDACTED] IF THIS INVOICE IS PAID BY 01/08/03

PLEASE SEE NOTES RE: CLAIMS, RETURNS, GUARANTEES AND CERTIFICATION ON REVERSE OF THIS INVOICE.

TOTAL DUE [REDACTED]

TO ENSURE PROPER CREDIT, PLEASE DETACH AT PERFORATION AND ENCLOSE THIS STUB WITH YOUR REMITTANCE

WORLD CONFECTIONS INC.
185 30th STREET
BROOKLYN, N.Y. 11232

ACCOUNT NUMBER

1646915

INVOICE NUMBER

935615

AMOUNT ENCLOSED

\$

NUMERICAL FILE

WORLD

confections Inc.

185 30th Street
Brooklyn, N.Y. 11232, U.S.A.
Tel.: (718) 768-8100
Fax: (718) 499-4918
Toll Free: 1-800-252-2639
E-mail: info@worldconfections.com

INVOICE

DATE	NUMBER
01/14/03	937100

COPY

ACCOUNT NO.: 1530569

SOLD TO
SAVE-A-LOT LTD.
P.O. BOX 4484

HAZELWOOD MO 63042-4484

SHIPPED TO
SAVE-A-LOT MACON
7595 INDUSTRIAL HIGHWAY

MACON GA 31206

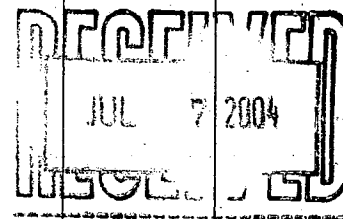
CARRIER: ROADWAY

DEPT.	DATE SHIPPED	CUSTOMER ORDER NO.	ORDER DATE	SALESPERSON		TERMS		
	01/14/03	10806825-1	01/13/03	81	LEONARD	1 % 30 NET 31		
NO. OF CASES		WEIGHT	SHIPPED FROM		FREIGHT CHARGES			
180		2160	3		PREPAID			
ASES	PRODUCT NO	UNITS / CASES	U / M	DESCRIPTION	TOTAL UNITS	UNIT PRICE	DISC. PER UNIT	NET AMOUNT
180	18101	24	BG	24-70Z GUMMI ASST CASE	4320			

RECEIVED

JUL 7 2004

150625



REMIT ☒ IF THIS INVOICE IS PAID BY 02/13/03

PLEASE SEE NOTES RE: CLAIMS, RETURNS, GUARANTEES AND CERTIFICATION ON REVERSE OF THIS INVOICE.

TOTAL DUE

TO ENSURE PROPER CREDIT, PLEASE DETACH AT PERFORATION AND ENCLOSE THIS STUB WITH YOUR REMITTANCE 1

WORLD CONFECTIONS INC.
185 30th STREET
BROOKLYN, N.Y. 11232

ACCOUNT NUMBER

1530569

INVOICE NUMBER

937100

AMOUNT ENCLOSED

\$

NUMERICAL FILE

WORLD

confections Inc.

185 30th Street
Brooklyn, N.Y. 11232, U.S.A.
Tel.: (718) 768-8100
Fax: (718) 499-4918
Toll Free: 1-800-252-2639
E-mail: info@worldconfections.com

INVOICE

DATE	NUMBER
06/09/04	940248

ACCOUNT NO.: 1783890

SOLD TO 99 C ONLY STORES
4000 UNION PACIFIC AVENUE
CITY OF COMMERCE CA 90023

SHIPPED TO 99 C ONLY STORES
4000 UNION PACIFIC AVENUE
CITY OF COMMERCE CA 90023

CARRIER: YELLOW

DEPT.	DATE SHIPPED	CUSTOMER ORDER NO.	ORDER DATE	SALESPERSON	TERMS			
	06/09/04	229352	03/29/04	06 LICHT	% Net			
NO. OF CASES	WEIGHT	SHIPPED FROM	FREIGHT CHARGES					
3750	52500	7	PREPAID					
CASES	PRODUCT NO.	UNITS/CASES	U/M	DESCRIPTION	TOTAL UNITS	UNIT PRICE	DISC. PER UNIT	NET AMOUNT
650	01612	24	BG	NEON GUMMI BEARS-7oz BAG	15600	.565		8814.00
600	01613	24	BG	GUMMI SOUR WORMS-7oz BAG	14400	.565		8136.00
700	01615	24	BG	GUMMI PEACH RINGS-7oz BA	16800	.565		9492.00
600	01616	24	BG	GUMMI APPLE RINGS-7oz BA	14400	.560		8064.00
631	01623	24	BG	SOUR "RUDE DUDES" 7oz	15144	.565		8556.36
559	01625	24	BG	GUMMI DINOSAURS- 7OZ	13656	.565		7715.64

REMIT 50778.00 IF THIS INVOICE IS PAID BY 06/09/04 50778.00

PLEASE SEE NOTES RE: CLAIMS, RETURNS, GUARANTEES AND CERTIFICATION ON REVERSE OF THIS INVOICE.

TOTAL DUE

TO ENSURE PROPER CREDIT, PLEASE DETACH AT PERFORATION AND ENCLOSE THIS STUB WITH YOUR REMITTANCE

WORLD CONFECTIONS INC.
185 30th STREET
BROOKLYN, N.Y. 11232

ACCOUNT NUMBER

1783890

INVOICE NUMBER

940248

AMOUNT ENCLOSED

\$

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

-----X
World Confections, Inc.

Opposer

Mark: ALPINE CONFECTIONS

v.

Opposition No.: 91/158,237

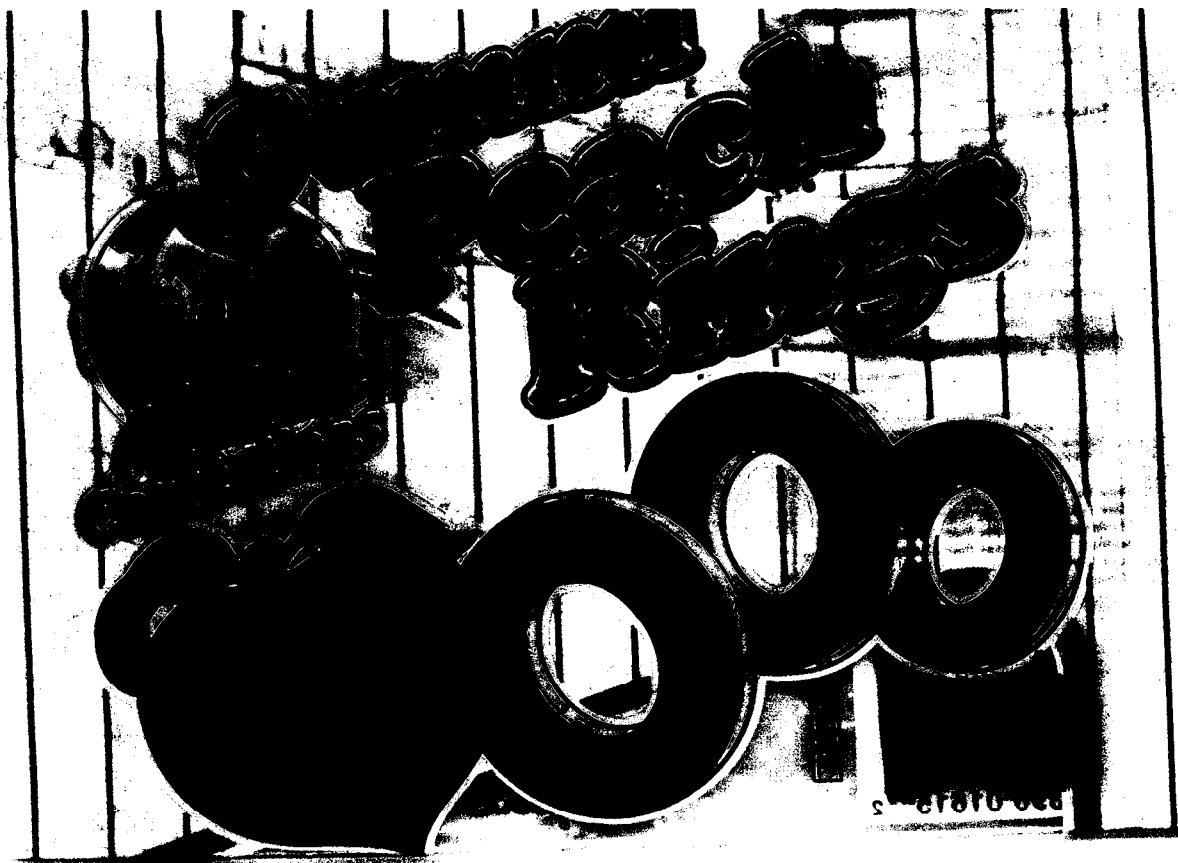
Kencraft Inc.

Application No. 76/362,977

Applicant

-----X

EXHIBIT 3



Nutrition Facts

Amount / Serving	% DV*	Amount / Serving	% DV*
Total Fat 0 g	0%	Total Carb. 30.5 g	10%
Sat. Fat: 0 g	0%	Dietary Fiber 0 g	
Cholest.: 0 g	0%	Sugars 25 g	
Sodium 25 mg	1%	Protein 3.6 g	
Vitamin C	0%	Not a significant source of dietary fiber, vitamin A, calcium and iron	

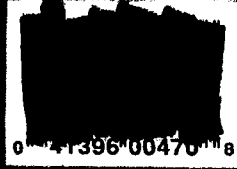
*Percent Daily Values (DV) are based on a 2,000 caloric diet.



GUMMI FROGS



NET WT 1.5 oz (42 g)



240510





GUMMI FROGS



COOL
SWEET
TASTY
FROGS

FREE

FREE

Direct of
ED 04 100

PHOB

IN
GET
100



Nutrition Facts		Amount / Serving	% DV*	Amount / Serving	% DV*
Serving Size 1 Packet (42g.)		Total Fat 0 g	0%	Total Carb. 32.9 g	11%
Calories 144.4		Sat. Fat: 0 g	0%	Dietary Fiber 0 g	
Calories from fat 0		Cholest.: 0 g	0%	Sugars 30.4 g	
Percent Daily Values (DV) are based on a 2,000 caloric diet.		Sodium 16.6 mg	0.7%	Protein 2.7 g	
		Vitamin C	0%	Not a significant source of dietary fiber, vitamin A, calcium and iron.	

SOUR
BUGZ



NET WT 1.5 OZ (42 g)

BUGZ

PRODUCT OF SPAIN

INGREDIENTS: SUGAR, CORN SYRUP, DEXTROSE, WATER, GELATIN, CITRIC ACID, LACTIC ACID, FUMARIC ACID, ARTIFICIAL AND NATURAL FLAVORS, COLORS ADDED: FD&C YELLOW 5, YELLOW 6, RED 40, BLUE 1, TITAN DYE.



240509

883701

PRODUCED BY BUGZ SWEETS



Nutrition Facts

Amount / Serving	% DV*	Amount / Serving
Total Fat 0 g	0%	Total Carb. 30.5
Sat. Fat 0 g	0%	Dietary Fiber 0
Cholest. 0 g	0%	Sugars 25 g
Sodium 25 mg	1%	Protein 3.6 g
Vitamin C	0%	

*Percent Daily Values (DV) are based on a 2,000 caloric diet.

Not a significant source of fiber, vitamin A, calcium

Serving Size

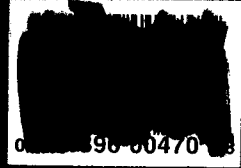
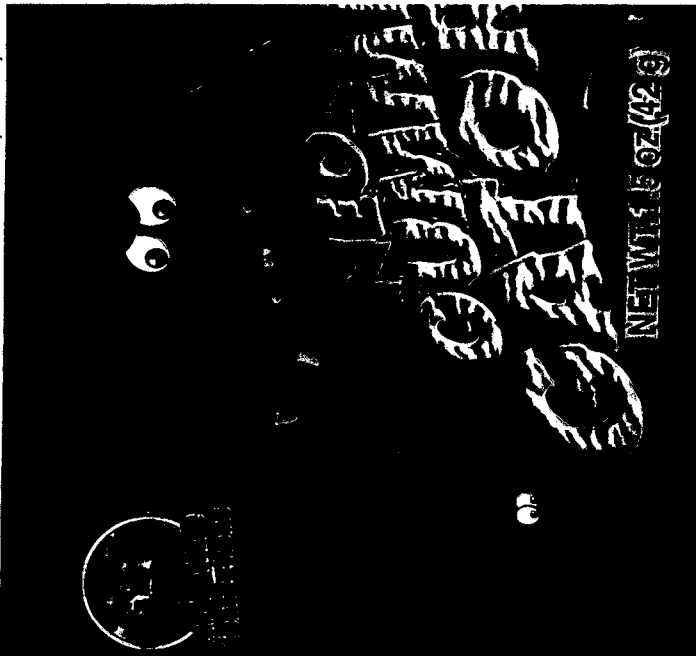
1 Packet (42g)

Calories 117.4

Calories from fat 0

Net Weight 1.5 oz (42g)

Not a significant source of fiber, vitamin A, calcium



240505



PRODUCED BY

CO.

7 OZ. (198 g)

Nutrition			
Serving Size 1 Packet (56g)			
Total Fat 9g	0%	Total Carb. 40g	
Sat. Fat 0g	0%	Sugars 40g	
Cholesterol 0mg	0%	Protein 3.7g	
Sodium 22mg	1%		
Vitamin C	0%		



41399 0041
 PRODUCED BY
 PRODUCT OF SPAIN
 2015

NET WT 2.07156 g



WARRIORS

WARRIORS

NET WT 1.5 oz (42g)

Nutrition Facts					
Amount / Serving		% DV*	Amount / Serving		% DV*
Total Fat 0 g		0%	Total Carb. 32.9 g		11%
Serving Size 1 Packet (42g.)		0%	Dietary Fiber 0 g		
Calories from fat 0		0%	Sugars 30.4 g		
Calories 144.4			Protein 2.7 g		
Sodium 16.6 mg		0.7%	Not a significant source of dietary fiber, vitamin A, calcium and iron		
Vitamin C		0%			
*Percent Daily Values (DV) are based on a 2000-calorie diet.					

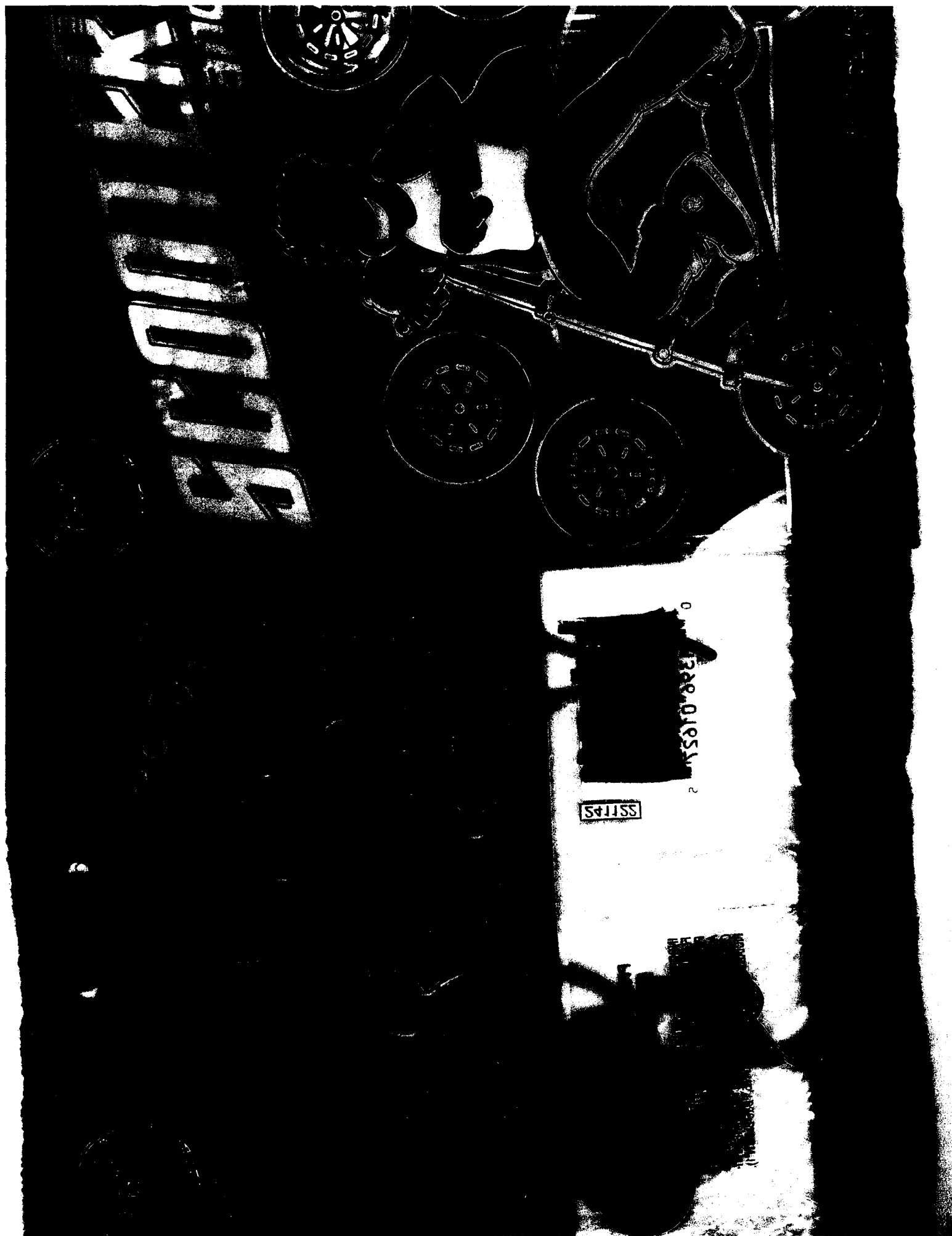
WARRIORS
NET WT 1.5 oz (42g)

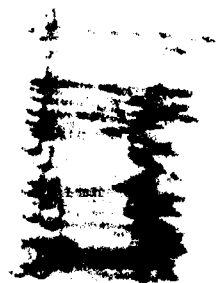
955052

41396100470 8









IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

-----X
World Confections, Inc.

Opposer

Mark: ALPINE CONFECTIONS

v.

Opposition No.: 91/158,237

Kencraft Inc.

Application No. 76/362,977

Applicant

-----X

EXHIBIT 4

Continued from page 15

Alpine Acquires Fannie May, Fannie Farmer Brands

CHICAGO — Alpine Confections Inc. acquires the intellectual property and 31 company-owned retail stores of Fannie May and Fannie Farmer brands for a reported purchase price of \$38.9 million, from Archibald Candy Corp. The acquisition will expand Alpine's sales which were reported at \$80 million prior to the purchase.

Alpine will make Fannie May its official flagship brand. The company has been producing Fannie May's most popular products and distributing them through Chicago-area retailers since early March under an interim licensing agreement.

Sources say Alpine's relationship with North Development Co., an Illinois real estate firm, was an important part of

the acquisition, and will help the company build Fannie May's initial retail presence. Alpine cofounders Dave Taiclet and Taz Murray say: "We're especially pleased to have North's president, Calvin D. Boender, and his team as our real estate partner in this effort."

Taiclet and Murray say Fannie May will start with 30 to 40 Midwest retail stores in the Fall and build from there. A small staff will be headquartered in Chicago.

In other news, Archibald retains Paragon Capital Partners, LLC to assist in the sale of Laura Secord, a leading Canadian marketer of boxed chocolates and other confectionery items. The decision follows last year's attempt to sell the company which had to be abandoned, the result of complications with Archibald's Chapter 11 filing.



Frankford Buys Nestlé's Wonderball Brand

PHILADELPHIA — Frankford Candy & Chocolate Co. has purchased the Wonderball brand from Nestlé USA, Inc. Wonderballs are hollow milk chocolate balls with candy surprises inside.

Frankford CEO Stuart Selarnick, tells **PROFESSIONAL CANDY BUYER**: "We believe our extensive licensing experience and character portfolio will provide tremendous new opportunities for the Wonderball brand. At the same time, Wonderball provides Frankford with a well-established chocolate brand in the growing segment of children's novelty candy."

Frankford currently offers a range of non-chocolates products including several featuring Nickelodeon licenses.

THE WORLD'S TOP CHOICE IN LICORICE

soft licorice
FINNSKA

LICORICE

Featuring the most extensive selection of IMPORTED LICORICE
Also available in sugar free

Garth J. Verburg Co.
Phone: 800-553-8795 Fax: 818-750-9770
Email: sales@fresh.com Web: www.fresh.com

Visit us at
BOOTH #440

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

-----X
World Confections, Inc.

Opposer

Mark: ALPINE CONFECTIONS

v.

Opposition No.: 91/158,237

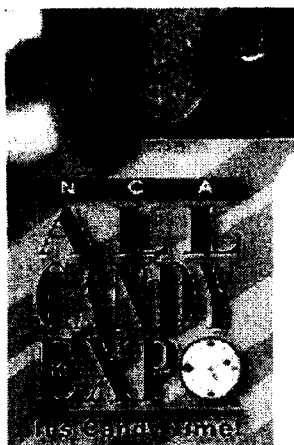
Kencraft Inc.

Application No. 76/362,977

Applicant

-----X

EXHIBIT 5



2005 ALL CANDY EXPO®

National Confectioners Association
McCormick Place / Cowdrie Center • June 14-16, 2005 • Chicago, IL

[Home](#) [Contact Us](#)

Candy is Big Business!

2005 ALL CANDY EXPO®

June 14-16, 2005

McCormick Place, Chicago, IL, USA

RELATED LINKS

- ▶ [Current Exhibitor List](#)
- ▶ [Floor Plan](#)
- ▶ [To Exhibit](#)
- ▶ [Exhibitor Service Center](#)

The ALL CANDY EXPO®, sponsored by the National Confectioners Association, is the largest confectionery-only show in North America, and serves as the meeting place for the confectionery industry. The EXPO is a unique opportunity to buy, sell and network with industry professionals and decision makers. There were 480 exhibitors and more than 18,000 attendees at the 2004 event.

Exhibitors at the EXPO are manufacturers of chocolate, candy and gum, and every confection imaginable is represented on the trade show floor, from the classic selections consumers buy year after year, to the hundreds of new products introduced.



No Bag Policy

Attendees are buyers from all classes of trade including supermarkets, drug stores, vending, convenience stores, wholesalers, theaters, mass merchants, specialty and department stores. Importers, exporters, suppliers, distributors and brokers also attend, making the EXPO the 'must attend' show of the year.



Sorry! The Expo is not open to the public. Only trade professionals may attend.

Show Hours:

Tuesday, June 14, 2005 • 10:00 am - 5:00 pm
Wednesday, June 15, 2005 • 9:00 am - 5:00 pm
Thursday, June 16, 2005 • 9:00 am - 2:00 pm

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National Confectioners Association
NCA
Representing the Candy, Chocolate & Gum Industries since 1884

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8320 Old Courthouse Road
Suite 300 • Vienna, VA 22182

Phone: (703) 790-5750 • Fax: (703) 790-5752

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

-----X
World Confections, Inc.

Opposer

Mark: ALPINE CONFECTIONS

v.

Opposition No.: 91/158,237

Kencraft Inc.

Application No. 76/362,977

Applicant

-----X

EXHIBIT 6

BAKER AND RANNELLS PA
ATTORNEYS AT LAW

NEW JERSEY

626 NORTH THOMPSON STREET
RARITAN, NJ 08869
TELEPHONE 908-722-5640
FAX 908-725-7088

PATENTS, TRADEMARKS
COPYRIGHTS, UNFAIR
COMPETITION AND
RELATED MATTERS

NEW YORK

60 EAST 42nd STREET
SUITE 817
NEW YORK, NY 10615
212-481-7007

e-mail: jmr@br-tmlaw.com

PLEASE REPLY TO NEW JERSEY OFFICE

June 23, 2004

CEASE AND DESIST

Kirton & McConkie
Attn. Todd Zenger, Esq.
60 East South Temple
Salt Lake City, Utah 84111

VIA Fax 801-321-4893
and First Class Mail

RE: World Confections, Inc. v. Kenkraft, Inc.
Unauthorized Use of World Confections Logo

PLEASE TAKE NOTICE:

As you know, we are trademark, copyright and unfair competition counsel to World Confections, Inc. ("WCI") of 185 30th Street, Brooklyn, New York 11232. As you know, WCI is a manufacturer and distributor of a wide range of confectionery products. As you also know, WCI and Kenkraft are involved in an opposition proceeding before the U.S. Trademark Trial and Appeal Board concerning ownership of and the right to register the mark ALPINE CONFECTIONS.

WCI is the owner of the mark ALPINE CONFECTIONS, which it has used since at least as early as June of 1997. WCI is also the trademark and copyright owner of its distinctive circular Alpine Confections logo consisting of a fanciful pastoral scene with cottage, haystack, river, bridge, forest trees and mountains.

It has just come to our client's attention that the News & Trends section of the May-June '04 edition of *Professional Candy Buyer* contains an article about your client's company entitled "Alpine Acquires Fannie May, Fannie Farmer Brands". The center and most prominent portion of the article contains an exact replica of our client's Alpine Confections logo. (Copy enclosed).

Unless we are advised otherwise by your client, we must assume that the use of our client's Alpine Confections logo in the referenced article was authorized by Kencraft and that the confusion which the same has aggravated and contributed to is intentional.

Demand is hereby made that Kencraft and its affiliates:

1. Cease and desist immediately upon receipt of this letter from any use whatsoever of WCI's Alpine Confections logo;
2. Immediately issue a press release, in language acceptable to WCI, stating that the Alpine Confections logo does not belong to Kencraft or its affiliates; that the logo belongs to WCI; and, if true, that the appearance of the same in the referenced article was unauthorized by Kencraft or its affiliates.
3. Immediately contact *Professional Candy Buyer* and require that they issue a prominent correction and explanation (including without limitation a statement that the logo belongs to WCI and that there is no affiliation between WCI and Kencraft or Kencraft's affiliates) in language acceptable to WCI.

This letter is not intended to be a complete statement of facts and is written without prejudice to any of our client's rights or remedies, all of which are expressly reserved.

Unless we receive complete and immediate compliance with the demands set forth herein, we have been instructed to take all necessary steps to enforce our client's rights without further notice to Kencraft. Please contact the undersigned concerning the above to acknowledge receipt of this correspondence.

Yours very truly,

BAKER AND RANNELLS PA

By: John M. Rannells

Cc: Matthew Cohen
Encl.